John Gelibrond -

THE WHOLE

# OFFICE

OF THE

COUNTRY JUSTICE

OF

### PEACE.

Wherein is plainly fet down all their Power and Duty bothin, and out of the QUARTER SESSIONS.

With the Ordinances and Acts of this present Parliament abridged, that any way concerneth their Power.

IN TWO BOOKS.

The third Edition Corrected, and with many practical Additions Enlarged.

By WILLIAM SHEPHERD Elq; Sometime of the Middle-Temple.

O LONDON, 24°

Printed for W. Lee, D. Pakeman, G. Bedell.

And are to be fold at their shops in

Fleetstreet, 1656.

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Rec. March 4, 1891.

# THE WHOLE SOFTHE

COUNTRY JUSTICE

### PEACE.

Wherein is plainly fet down all their Power and Duty bothin, and out of the QUARTER SESSIONS.

THE FIRST PART,

Containing their Power and Duty out of the SESSIONS.

### By William Shepherd Esquire.

o 2 Chron. 19. 5, 6, 7.

And he fet Judges in the Land throughout all the fenced Cities of Judab, City by City.

And he said to the Judges, Take heed what ye do; for ye judge not for man, but for the Lord, who is

with you in the judgement

Wherefore now let the fear of the Lord be upon you, take heed, and do it, for there is no iniquity with the Lord our God, nor respect of persons, nor taking of gifts.

London, Printed for W.L.D. P.G.B. and are to fold at their Shops in Fleetflreet. 1656.

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A destruction of the second 453 Their like across the 700 bridge en in of the THE PIEST PARTS Carolina Stayed and Comment of the Ession Single Cample Lagrant L. And the for full in the continue of the trade of the Cared Control of Adam Englanding adoction of these Telebrica with the day a school at 1 rot profession that Land a section to The state of the state of the gore fine Lord conform Constitution of the second the state of the state of

To the Worshipfull

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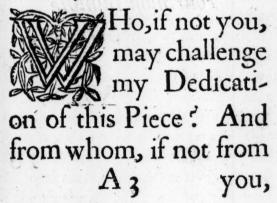
JUSTICES

OF

PEACE

Within the COMMON-WEALTH of England.

Gentlemen,



you, may I expect and challenge the Protection and Countenance thereof? At your feet therefore I leave it, and if now it may find favor in your fight, it is enough much to oblige

Your most humble Servant,

W.S.

To



### To the READER.

Courteous Reader,

d

Hen I was first called to the Office of a Justice of Peace, I did (as I thought I ought to do ) study the Office, and made a draught thereof for my Self: the which, upon weighty causes, I offer to the Publicke herein. This Office is doubtlesse an Office of special use in our Common-wealth. And by this and my former Treatise of the Constables (another Officer of the Peace of this (ommon-wealth) thou mayest easily perceive of what a large extent these Offices are, and bow many good Lawes these Officers are trusted with the execution of: and by comparing the

the same with what is done by these Officers in the execution of thefe Offices, thou canft not but observe a vast difference between the Power and the Execution thereof. The Trust and Power is great, the use and imployment therof is little. And truly, I may (ay, Wee have been the most happy Common-wealth for a baving, and the most unhappy for Execution of communes good Lames, in the World For b the ex omnibus life of Law being in execution, who doth not see that most of our Lawes miliffime, certiffime. are but dead and breathless carcafesc, Integerriand they themselves by their non-exma, expeecution, are executed? There feem to ditiffima. facillime. have been ( amongst others ) two (beciall causes bercof.

b Anima Legum Admini-Stratio. c Hooker. The not executing

a Leges Anglia

legibus

bumanis.

I The want of Information.

2 The unfitnesse of the men chosen to the Offices, for the execution of For either they have been

of Lawes upon offenders, is the execution of the Lawes themselves.

d igno-

d ignorant, and know not; e coward. d Qui valy, and dare not; fotherwise engaged dit in teneand implayed, and cannot; 8 or lazy quo vadit. and negligent, and will not do the Pro.29.5 The fear of duty of their places. They have Man is a wanted will or skill. They have frare Qui non eft for-Price in their band, but have no is facile ad heart to it. Here's the Difease, injuste faciand h grievous it is to the People: vincinur. and the Cure is obvious, and already f 2 Tim. espied, and begun by our State-Physi-2.4. g Pro. 24: cians. Let able and fit men be chofen 30,31 to, and kept in these Offices. andh Preesse & truly (if be not mistaken) herein molessum. heth almost the whole Work of Reformation in Church and Commonwealth, to make and keep the Officers thereof good. For let the Lawes and Modell for Government, benever fo good, if the Officers trusted with the Execution thereof be naught, little fruit will come thereof. Had our Bi-Shope, and Officers about them, been chosen out of the best men of the

Time,

Time, doubtlesse Episcopacy had not been so grievous, and odious: and exchange it for Presbytery, and let the Presbyters be Ambittous, Covetous, and Contentious; and may not this Modell bee more grievous and odious? The like may be said of the Independent Modell. Make the Tree good, and the Fruit will be good. Pro.29.2. When the righteous are in authority, the people rejoyce. Happy people! that live under such Trees we losent Daniel & Morde.

Exod.18. 21 Deut.1.13.

2 Sam. 23. 3 1 Chron. 26.6

Prov.28. 16 Gen.17.6

Trees us Joseph, Daniel & Morde-cai were. Let our Justice of peace then be curiously chosen out of the sittest of men, after the draught of Scripture Magistrates, with these Properties. i. e. Let him be I An able man, Vir virtutis, a man able in body and minde to do the Commonwealth service; not an Ignoramus, one that can do nothing without his Clerk; for it is an Office of skill and pains, and the work of a strong man,

2. A man fearing God, not a man A Magiwicked in life and conversation; for nour is his Power without Piety is but armed In- holineffe. justice; and k if he can do much, he k Corrupwill be sure to do much mischief. understand not the meaning of that politick Maxime, Abad man may be a good Common-wealths man, feems to have more truth in it, " That Stodiar iphe that bath no care to reform bim- des. felf, will never have care to reform He can others. I Tim. 3.5. Magistrates are never be faithfull to Umbratiles Dii well it were if they me, that is did more lively represent divine Per- not faithful toGod. fetions. And it is pudendus pudor, Conftanto see a man in Honour, unlike to God ius. \* There in Holinesse. are three

judgement, one that can discern ornaments of a Juwhat is acquum, distinguish between stice, Juthe weight and justice of the Com-stice, Wisplaint, and malice of the Plaintiffe; Fortinde.
one that can speak the Law, and Lamb.
judge according to the Rule thereof, Nos numerus sumus.

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not weak for Abilities of Government.

4. A man of Courage, valiant for God and his Truth, and in the execution of his Office, not fearfull and dastardly. Welfare the Emperour, that being asked, whom he loved best, an-(wered, He that doth not fear me more then God. I wish then, that all fearfull Justices would do as those fearfull Souldiers, Judg. 3. did, leave the work, being good for nothing but to make up a number.

5. \* A man of Truth, one that loves \* Magis amica ve-Truth in himself and others, and ritas, funcounts it his duty and dignity to sift damentum it out in all things, and having pacis veritas, fabilifound it, to embrace and maintain mentum uit to the uttermost; for he will eatriusque potestas. sily prove a false Friend, that will at \* Acts 24. any time dare to falfifie Truth for his 26. Friend.

Demoftbenes bribed

6. \* A man bating Covetou nesse. by the Mione that will not let go the guilty, or lesians. punish

punish the guiltlesse for gain, that shaketh his hands from holding Bribes; For covetousnesse is not only idolatry, but it makes the covetous Judge an idolater, Isai. 33.15. That have eyes and see not, ears and hear not, and a mouth and speaketh not.

7. A just man, one addicted and af-

fested to Justice.

8. An active, not lazy man.

9. A known man, (that is, \* as \* See the fome take it) a man experimented annotations of Deamongst the People for these things: odate, and or (as others take it) a man exceltive vines of ling others for Reputation, Power, the Assembly upon and Ranke, not an obscure and by upon mean man; for power will arm 15 the skill: and it is as absurd (\* as one chief of saith) to advance to places of Rule \* Pemble men weak for Abilities: as for a on Eccles. Servant to ride on horse-back, and 104 the Master to lackey on foot. I say not, Every Justice of Peace must have

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have one thousand pounds a year, or be a Gentleman, & c. But I say, he had need to have enough to carry him through his Office; and it were fit he didexcell other men, if not in these things, yet at least in Wisdom, Piety, Courage, and better Qualifications. Prov. 12 26. The Righteous is more excellent then his neighbour; such men as these doubilesse will seek the things of Christ and Christians, not their own, Phil 2. 21. I Cor. 10.24.33. Wait on their Ministery, and rule with Diligence, Rom. 12.7,8. Judge the People at all Times, Exod. 18.22. Be industrious intheir Places, I Sam. 7.16. Pfal. 101.8. Such men will consider, that they execute the Judgements of God, and not of men, that he sits amongst them, and looks on them, and that there is no iniquity in him, respect of persons, nor taking of gifts. And there-

therefore they laying aside all parti-Psal.101.

ality, respect of persons, base fear, 2 Chron.

foolish pity, sinfull favour, and ma-19.6.
lice, unnecessary delay, precipitate Deut.16.

rashnesse, and self-seeking, will duly, 19.17, & indifferently, and uprightly minister 4.1,17.

Justice to every min. And the God 18.

of Order, and King of all Govern-Jam.1.20.

ment give us such Justices, and 7.8.

grant us such an execution of Judge-Judg.19.

ment and Justice, that our Officers, 30.

according to the Prophecy, Isai. 60.

17,18. May be Officers of Peace,

If any now shall think this Labour superfluous, there being already in Print so many excellent pieces of this Subject, Let me intreat them to suspend their judgement till they have read it; for then they will find many things in this that were not, many other things that could not be in any of the former: and that

that which is here, and was in the former, they shall find here in a dresse and method much differing from the former. And so farwell.

Thy true Friend,

W.S.

THE



# The whole Office of the Country Justice of Peace.

### CHAP. I.

Advise to Justices of the Peace, drawn from experience.



Efore we enter into the duty and power of these Officers, we shall premise and lay down some things by way of advice, taken our of our own experience and observation, as much conducing to the

furtherance of Justice, improvement of the execution of this Office, and advantage of the Common-wealth. And first generally.

The Justices must take great care in the choice of all the Officers of trust that are under them; As Church-wardens, Overseers of the poor, and the rest, but especially of the high-Constables, and petit Constables. And for this

to

Chap. 2 to chuse them themselves, and to finde out the most pious, well affected, discreet, publike-spirited, able and active men, and to make

their election alwayes of those men.

It is very good to keep fociall Seffions often in, and about the County, and to have there a choice lury of the most prudent, and pious men of the place. And for this they may without doubt (if they please) get the Sheriffe to return the men of the Justices naming. And it is best then to give them in charge some few speciall things; As Ale-houses, persons of ill behaviour, vagrants swearers, and the like. And it will be best to keep it onely for one or two Hundreds, and not more at any one time, or in one place. And this may be held by any two Justices of the Peace, one of them being of the Quorum: And they may, if they please, call to their affistance the Clark of the Peace, who is bound, being required, to attend them. And if they please, they need not give any other charge but this, to require them of the jury to enquire upon the heads of the things contained in the Warrant, by which the Seffions is called: which may be after this manner.

## A Warrant to the high Constables to call a speciall Sessions.

To the High Constable of A.

Glouc.ff.

Fou are hereby required, and straitly commanded, that you cause to be apprehended in all places within your Mundred, all this next Summer, all persons

fons what foever, above feven yeers old, that are min- Chap, I firels, Pedlers, Tinkers, Fortune-tellers, Players. Fencers, Bear-wards, and other idle persons able to work, that wander, and rogue, or beg about the Countrey, under any pretence whatfoever, and bring them before some Justice of Peace to be examined. And you are to give notice in all places within your Hundred, that there will be a speciall S'essions of the Peace, holden for the County of Glouc. at the house of H. in Strowd, upon Munday the twentieth day of May next, by nine of the clock in the morning of that day; and that you require all the petit Conflables, and Tithing men of your Hundred. to be then, and there, with a note in writing of the names of all such persons within their Parishes and tithings, as bave within seven years last had any baftard child, and not been punished for it; and of all such as are idle persons, and want means to live upon, and wil not work by order of the overfeers of the poor; of all common labourers that will not work for the wages of the Countrey; of all such as are common beggars, wandring, idle, or diforderly persons; of such as do not put themselves to service, being appointed by the Justices of Peace; of Such as are suspected for theevery or incontinency; of all common swearers, common drunkards, common hedge-breakers, common Alebouse-haunters, common flanderers or libellers; of such as profane the Lords name or day, by swearing, or Sabbath breaking; of such as run away, or threaten to run away, and leave their families to the parish; of fuch as are poor, and will not let their children be bound Apprentices ; of fuch as use to fell Ale or Beer with, or without licence; and of all such as do not do their duty towards the repairing of the high ways, according

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feeeh

Chap. I ding to the flatute; and also the names of all fuch as binder the punishment of convoy of rogues to the jufice, or to Bridewell, or the fettlement of the poor. And you are also to require the said petit Consta-bles to warn to appear then, and there, all such perfons as they think to be fit and able to inform againft any fuch offendors; And all perry Conftables and other persons so warned in, are to appear and Submit thereunto, at their perils. And that your felf be then there alforto give in a return in writing of the names of all the Parishes and petty Constables thereof, within your Hundred, and the defaults of fuch of them as shall not do their beft to apprehend such idle and vagrant per sons, and punish them according to the statutes, or have not done their duty in the convoy of rogues to Bridewell, or otherwise in the execution of their office ; and hereof fail not. Given under our hands and feals this first day of May, 1651.

This Warrant the Justices may make for as many, or as few of these offences as they please.

### A warrant to a Sheriff for the fummoning of a Jury.

Gloue,ff.

A. B. and C. D, Esquires, Justices of Peace of the County of Glouc. to the Sheriffe of the said. County, greeting. We command you, that you cause to come before us at the house of H in G the twentieth day of this present moneth of May, twenty four good and lawfull men of the Hundred of S. in your County or of the Hundreds of S. and M. for a Jury

a Jury, to enquire then and there on the behalfe of Chap. I. the Keepers of the liberty of England by authority of Parliament, upon certain articles grounded upon the Statute of the fifth yeer of Queen Elizabeth, concerning labourers, and the Statute of the 39.h year of that Queen, concerning rogues and vagabonds, and other things which shall be then given them in charge on the behalf of the faid Keepers of the liberties, against other malefactors. And that you make Proclamation in some fit places within the faid Hundreds [ or Hundred ] that all such as will prosecute against any such persons, be then there before us ready to do it. And that you your felf be then there ready with this our precept, and the names of the Jury aforesaid. Witnesse our felves, the faid A. B. and C D. at S. in the County aforefaid, the first day of March, 1691.

> A.B. C D.

For the power of this special Sessions and order of proceedings therein, See it in the second book and the seventh chapter thereof: And in chapter 9.11, 12 and 13, of that second Book.

Wherein soever the Justices do find any defect of a law conducing to the end of punishment and reformation of any offence, is will be their wisdom (as much as may be) to supply it by an order made at their generall Sessions.

They must take case to make their Sessions orders known in the County, either by posting them up all the Sessions time, or by causing them to be read or posted up in some of the great Towns of the County.

2 To

### Advice to Justices of Peace.

To have as many informers and spies to dif-Chap. 1 cover evil doers, and to give the informers all 5. due encouragement, by concealing their names. and recompending their fervice with a reward

by the County stock. And to make and have standing orders of the Sessions for this purpose.

To give honest and carefull officers all due encouragement, by punishing severely such as do abuse them, and taking care they may be protected in the doing of their office, have their monies they lay out for their parishes again

from the parishes.

6.

8.

To have a County flock of mony alwayes. 7. And for this, to fet and keep up the Rates for the kings Bench and Marshalfie, the Prisoners in the Gaole, and the Mariners and maimed fouldiers to the highest, and see it fully collected and brought in, and carefully to husband that flock, for the profit of the County.

> To have houses of correction, and a Goale frong and sufficient, and well provided and governed, and for this purpose, to charge the County with fo much mony from time to time as shall be needfull for the doing hereof. But

now more particularly.

The best way we have found by our experi-High ways. ence to hafte the Amendment of high wayes, is by these two means. I. If one of the lustices of Peace view and indite one of the places thereabouts where the ways are bad, upon his own view, at the Quarter Sessions, and set a good handsom fine upon the place; for besides that this mony will help to repaire the way, this will ftirr up the neighbou hood. 2. If the Juftices about a month after Easter, appoint a sitting of purpole,

purpose, and before this time send their war- Chap. I rants to the high Constables of the places, to this purpose. 3. But this work now by putting the new Ordinance in execution will doubtless be much furthered.

To the high Constable of S. A.B. and C.D. Esquires, two of the Justices, &c.

We command you to fend your warrants to all the petit Constables or Tichingmen , and furveyors of the high ways, of the severall parishes and Tythings within your Hundred, to give them notice, that they are to appear before us the day of this month, at the doc. and then, and there to bring with them a note in writing of all fuch Con-Stables and Church wardens, as have not ch fen furveyers for the high way work, or have not given notive of the das for the work, and of furb surveyors as have not feen the fame done; and of all fuch perfons as do not their work by themselves, or their plowes, according to the lawes in that case provided. And of all fuch as do not dig their di ches, and cut dy pare their hedges adjoyning to the high wars; to the end that we may proceed against them, according to the Tenor of the Same Laws. Given under dec.

The like warrant may (if need be) be fent about Midfomer. We have found much foccesse by this warrant, and that it hath much haftened the work. What the softices may do hereupon out of the Quarter Sessions, e ther at the repecial Sessions, or out of any Sessions, see in the first Book, chap. 27. and the second Book, chap. 27. Chap. T.

For the suppressing of Alchouses and Ale house keepers, the root of all evil, we have bu thefe two wayes. 1. To go Circuit the County, and by the presentment of honest Juries at the special Sessions, and the return of the Conftables of every place, there to have all their names that fell given in, and then to continue as many of them as shall be thought necessary. And either by the Constables, or by two men fent of purpose ( which is a better way ) to difcharge all the rest that are supernumerary. And this being proved to be done, if they fell afterwards, to commit them to Gaole for three days. and until they give Bond with foreties never to fell again. But this remedy, as some of the pasfages hereof may be formwhat questionable, because not done by the ordinary way of inditement, fo have we not found it very successfull. We have therefore, after we had discharged them, and had proof thereof, by order of the fessions directed to certain persons by name ordered the commitment of these persons for their contempt. But the other way ( which we take to be the best remedy for this evil) is to convict then once, and make them pay their 20.5. And them to get them convicted the second time. and for this to fend them to Bridewell, and let then flay there their month, and the third time to make them flay there untill the Justices may be affured they will give over.

Ale house.

The best way to sour and rid the Countrey of vagrants and idle persons, is by setting up certain officers of purpose to look after them, and to arm them with such power, and give them such pay by Sessions order, as they can

make

make. And these they may call Marshals. And Chap. 2. if these officers do in the beginning of the Summer-out of the Fairs and fuch like places of meeting, take up but some of these, and carry them before a Justice of Peace, who may examine him upon the course of his life, and if he perceive him to be a vagrant or idle fellow, or find that he can give no good account of his life ( as doubtlesse he will ) then his best way will be, because one Justice alone, cannot fend fuch a person to Bridewell, to put him to give fureties for his good behaviour, and for lack thereof fend him to Gaole. And being there at another time by two Justices he may be turned over into the Bridewell. This course will very much cleer the County for that Summer; And this course we have found very successfull this way.

#### CHAP. 2.

Of the Persons over whom fustices have power.

Their power in and out of Sessions is over over what all persons within their County; they persons their power also one over another, for a Justice of the Peace of the County, may be into the quarter sessions as another man for any offence there tryable. But one Justice cannot americe another for absence, as the Justice of Assiles may do, nor can one of them imprison another for any abuse offered to him for interpares non est posessas Lamb. fol. 385.

CHAP.

### CHAP. III.

Of the Place of their Power.

In what place their power is to be exercifed.

He power of these Judges in the Sessions and out of the Sellions is to be exercised in their own proper County only, and not elfewhere; Therefore they are not to intermedle in other Counties nor in any Citie which is a County it felf, where there be speciall Justices of peace for the place, nor in those places within the County where they have a Charter, and therein a special prohibition to the Justices of the County, that they meddle not there, and Justices are appointed for the place. And yet perhaps in this last case the Acts that fuch justices do there may be good, but they may be subject to punishment for the doing thereof. But they may intermeddle in all Corporate Towne Liberties and Franchises within the County which have return of Writs but no proper Juffices of peace. And if a place lie within two counties, or part in one County, and part in a Citie, each may intermeddle with their own part; So that if a house holden by force be within two Counties: And when the Juffice of Peace of one County comes, the force is removed into that part which is in the other County he can do nothing 14. Eliz 5 5 Eliz 4. 39. Eliz. 4. 43 Eliz. 3. Dale I. P fol. 27. 117. Lamb. 7 B. 92.

The Justices in their County cannot punish

an offence done in another County, on a renall Chap. 3 Law, but in some speciall cases where the law gives them power fo to do as in the cases of Guns, Partridges, 1. Fac. 7. Fac. 5 Eliz. 4. when the Statutes gives power to punish where the offender shall be taken , and 22 H.8.5. for reparation of Bridges, where a Bridge is in decay, and he that should repair it, lives out of the County, in this case they may proceed against him as if he lived in the fame County; And fo in some other speciall cases, Justices of peace living or being out of their own County, cannot there exercise any Judiciall Act of their Jurisdiction, as take oathes, examination, or Recognizances, make warrants, or the like, nor can they cause offenders to be thither brought before them out of the County, but fuch Acts fo done are void. But it is held that he may do any ministerial Act as take the oath of one that is robbed, 2Recognizance by fupplicavit, or the like as well without, as within the County, and thefe Acts are good, fo in Hellyers, Cafe 7, Car. B R. per curiam.

But for the further opening hereof, and clearing this point and fetting down of the law in reference to these things in generall; And what Justices of the Peace of the County of Glouc, may do of their office within the Citic of Glouc, as things are there now by the Charter of the Citic of Glouc, these things are to be known. I. That if a Justice of Peace of one County take a Recognizance, information upon oath against a malefactor, examination of a malefactor without oath, or make a Warrant for causes arising within his own County; This is

Chap.3.

not fafe nor Warrantable especially the two first; But if the partie himself will voluntarily Submit to examination without oath the Justice may examine him as a private man, but not as a Justice of Peace by virtue of the Commission for these being matters of Jurisdiction must be exercifed and done within the County. So he may there take a voluntary oath. And fuch Acts of Inrifdiction fo done it feems are void and Coram non Judic. But if it were in the same County, & in a place priviledged only from the intermedling of the Justices of the County their Acts may be good as in the refidue of the County though their fitting there may be a contempt as where the Sheriffe enters a Libertie without a Non Omittas. 2. If the Information name, and fay it to be done at a place within the County in this case it seems it is good, becaufe no averrment lieth against it, the same being a Record fieri non debet fed fallum valet. But this entry may make the Justice of Peace lyable to an Action of the case by the party that is disadvantaged by such an entry 3. The Justice of Peace of the County of Glocester may keep their generall or any speciall Sessions of the Peace, and all things necessarily incident thereunto they may do in any place within the Citie of Glocefter. And as to their other meetings by way of preparation or advice wherein they exercife no Act of Jurisdiction but do other things, there is no question but they may do them there And if they exercise any Act of Jurisdiction, there is not much question in it. for their Charrer doth expresse it. Sessions of the Juffices, or their Sessions, and especially if it have

Refolved. 37. Eliz.

Opinion of .omc Learned Lawyers.

### Of the Power of Justices of Peace.

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have been used in the time of Rich 3. for as Chap. 4 to these things, and the Sheriffs Court the power is as formerly it was when it was parcell of the County.

#### IIII. CHAP.

Of the power of Justices of the Peace in Generall.

Ny Inflice of the Peace, whether he sen r. be of the Quorum or not, may do most What one of the works which belong to their Office as a Justice of Justice of Peace; but some things cannot be Peace may done by leffe then two Justices of Peace; for the Sessions, where power is given to two of them to do a and where thing, one alone cannot do it; And in some there must eafes, and for the doing of some parts of their betwo or Office, it is requifite that one or two more be any thing. of the Quorum. But where one Justice may And of their do a thing, there two or more may do it; power and for it may be done by more, though it can-Office in not be done by fewer. Dalt J. P. 26. 27. generall. 73. &c

2 When a statute appointeth a thing to bee Sett. 2. done by two Justices of Peace against an offen- Peace. der, if the offence be a misdemeanour or matter against the Peace, It is said, that upon complaint to any Justice of Peace of this offence done, he may grant his Warrant to atrach the Warrant. offender, and bring him before these two Justices, or to find fureties for his appearance at the Arreft

### 14 Of the Power of Justices of Peace.

Chap.4 Good Behaviour. next Sessions to answer this offence. Or if he see cause, he may binde him to the good behaviour, and so to appear at the next Sessions. But he alone cannot determine the matter, Dalt. J. P. 29. Nor can he (as we conceive) attach or bind him over till the party be indicted for the offence, unlesse it be in case where the statute gives a special power to a Justice of Peace so to do.

Sea. 3.

All that Juffices of Peace have power to do, regularly, it is their duty to do; and what is their duty to do, they have power to do. And for their neglect of their duty they may be punished in one way or other.

Posse Comitatus. Self 4. Felons.

Any one Justice of the Peace, when need requireth may take with him, or require for his assistance in the execution of any part of his office, as to apprehend Felons, keep the Peace, or the like, any number of men he shall think fit. And such as are able must obey their Commands herein, or they may be bound to the good behaviour, or fined for their disobedience.

Peace.

Good Be-.

A Justice of Peace, as touching the keeping of the peace, may do all that a Constable, or a private person may do by the Common Law. 6.

Sea. 5. Peace.

Se& 6.

They are in the room of the ancient Conservatours of the peace, and have the same power they had. 7.

Se& . 7 .

Where a Statute doth give a power to Justices of peace to hear and determine of any Offence in generall, and saith not where, there it must be done in, and cannot be done out of one of the Sessions. But if it give them a power to make a Rate or to do any speciall thing, and

Seffions.

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**fay** 

### Of the Power of Justices of Perce.

fay not where, there they may do it in or out of Chap. 4 either of the Sessions. 22. H 5. Cook 2 part of his Inft. 703,704

Where a thing is to be done by the Justices Sell. 8. with the affent of others, neither of them alone

can doit. Cook 2 part Inft. 704.

They must, in executing of the power given Sed. 9. to them, by Act of Parliament, be very cautious, and fee that they firitly purfue it, and therfore that they heed the words of the statutes which are penned diverfly. I As to the perfons of the Justices, some things may be done by one, some things not by leffe then two, and fome things not by leffe then three luftices: And some things cannot be done by any luflices, unlesse one of them be of the Quorum. They differ as to the Manner of convictions Some of them appoint the Conviction to be by oath of witnesse, some by verdict, some by view. or hearing, some by confession, some by examination, some by enquiry and examination: some Statutes give them power to hear and determine. And some say it shall be done in a Seffions, some in a Quarter-sessions, or in a publike, or in a generall Sessions. And some say, That the Juffices shall punish the offence, but do not fay where, nor how, nor any thing at all for the manner of conviction; some statutes say nothing of the way or manner of doing of execution. See 14 Eliz, about the rates of the prisoners in the Goal touching the five pound forfeiture, there is no way or manner of conviction, or of the doing of execution fet down. Some flatures again direct the way and manner of execution, but say nothing of the manner of conviction;

Chap 4

as the Act of 43. Eliz, about the Kings Bench and Marthalfie money. The forfeitures of ten fhillings by the Churchwardens, and twenty shillings by the high Constable, are appointed to be levied by diffresse and sale of goods, by warrant from the Treasurer. But it is not said, how they that offend herein shall be convicted. So the fine to be fet on the Treasurer for his default, is to be fet by the Juftices at their Quarter Sessions, and levied by sale of goods; but it is not faid how the Treasurer shalbe convicted. So the twenty shillings forfeiture to be fet upon the Overfeers of the poor, for their neglect, is to be levied by the fubfequent Church-wardens or Overfeers, by Warrant from two Juftices of Peace, by diffresse and sale of goods; but the statute doth not direct how the Overseer shall be convicted of his offence, whether by witnesse or how else. So upon the Stat. of 43. Eliz for Mariners and maimed Souldiers, it appointeth that the forfeiture of twenty shillings for the default of the Church-wardens and petit Conftables and fourty shillings for the default of the high Conftables, be levied by the Treafurers, by diffresse and sale of goods; but doth not fay how hee shall be convicted of the offence.

Sea. 10.

And it feems in these cases of the Kingsbench, and Marshalsie, and Mariners, and maimed souldiers, the Treasurers may levy the forfeitures and summes of money in arrear without any conviction, for there needs no proof here; if he receive not the money the offence is certain to him: And then, Quod constat clare non debet verificare. Yet it is best to let the parties

ties be indicted, and so convicted in the ordi- Chap & nary way before they make a diffresse. For this doubtleffe, in all the other, and fuch like cases where the matter of fact is doubtfull, is to bee done before execution can be made by diffreste and fale of goods. 3. The flatutes differ also in their penning, as to the persons by whom the diffresse is to be made; for some of them direct, that the Warrant shall be directed by the luflices of the Peace to the Conftables, some of them to the Churchwardens, some of them to the Conflables and to the Churchwardens, some of them to the Conftables or Churchwardens, fome of them to others, fome to no person at And laftly, They differ as to the manper of the Warrant, for some of them direct it to be done by Warrant onely, and do not fay in writing, others by Warrant in writing, others by Warrant under the hands of the fuftices, and others by warrant under the hands and feals of the Juftices. In all thefe cafes the words of the statute are to be heeded, and they giving a power and authority onely, it maft be firially purfued. See the Acts of the Parliament about Ale houses, Ord. 9 Decemb. 1646. Act of the 9. of April 1650. I Car. 1. 3 Car. 1. and fee chap, 49, of the first book.

Where a flatute gives to the Juffices of Feace Sest. 11. a power for lack of diffres, to inflict a corporall punishment, this lack of diffresse ( it feems ) must be taken for lack of distresse in the place where the diffresse may be taken, and where the Officer that is to take it, hath power. if a Justice fend his Warrant to the Constable of A to leavy money by diffreste and sale of the

goods

Chap 5

S(8. 12.

goods of Hin Dale, and he be a stranger and hath no goods there, but hath enough in other places; in this case he is to be dealt with as a man that hath no distresse at all. And it is good to consider whether to put the clause for the insticting of corporall punishment in case of lack of distresse in the first Warrant, and leave it to the Officer, or to wait the Officers return, and then to give the warrant for the corporall punishment; the best way in this is well to weigh and mark the manner of penning the statute in that part, and strictly to follow the words of the statute therein.

The Juftices upon convictions for swearing, or any other offence, may not order lesse to be taken then the forfeiture appointed by the law. Ras. Judges 1633. Sect. 10. See more of this in the second book, chap. 7. and first book,

chap. 50.

### CHAP. V.

### Of Blasphemy and Herefie.

Sell. I. For the opening hereof, these things must be laid down: I To maintain and publish by preaching, printing, writing, or teaching; That there is no God, that God is not present in all places, or that he doth not know, and foreknow all things; or that he is not Almighty; or that he is not perfectly holy; or that he is not eternall; or that either of the three Persons of

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the Godhead is not God; or that they three are Chap. 5 not one eternall God; or that Christ the Son is not equall with the Father: or fhall so denie the Manhood of Christ, or that the Godhead and Manhood of Christ are several! Natures ; or that the humanity of Christ is without fin: or that shall maintain, as before, that Christ did not die, or not rise from the dead, or is not ascended into heaven bodily; or shall deny that his death is meritorious in the behalf of Beleevers; or that Jesus Christ is not the Son of God, or that any part of the Scripture is not the Word of God; or shall so deny the resurrection, or day of Judgement. 1. An obstinate maintaining of any of these errors, is Felony, 2. For this the offender, if he be found guilty, and do not then abjure it but defend it any further, he is to fuffer as a Felon, and not to have his clergy, but forfeits nothing, nor is his blood arrainted. 3. If he do abjure it, he must lie in prison till he have given bond with two foreties. fubfidy men, to two Juffices of the Peace, or Judges of Gaol delivery, not to offend so again. 4. If he then offend again, he is to die without mercy.

2 If any maintain and publish, as before, that all men shall be saved, or that man by nature bath free will to turn to God, or that God may be worshipped in or by Pictures or Images, or that the soul of any man after death goeth neither to Hell nor Heaven but to Purgatory; or that the soul of man dieth or sleepeth, when the body is dead; or that the revelations or workings of the spirit are a rule of faith, or Christian life, though diversesom, or contrary

Chap. 5

to the written Word of God; or that man is bound to believe no more than by his reason he can comprehend; or that the Morall Law of the ten Commandments is no rule of Christian life; or that a beleever need not repent or prav for the pardon of his fins, or that Baptism and the Lords Supper are not the two Sacraments appointed by the Word of God; or that the baptizing of Infants is unlawfull or void, or that fuch persons must be rebaptized, or shall rebaptize any person so baptized; or that the observation of the Lords day according to our custome, is not according to, or against the word of God; or that it is nor lawfull to joyn in publick prayer or family prayer, or to teach children to pray, or that the Churches of England. their Ministers or Ordinances, are no true Churches, Ministers, or Ordinances; or that the Church-government by Presbytery is Antichristian or unlawfull; or that Magistracy is unlawfull, or that the use of Arms in any case is unlawfoll. 1. All these Tenants are offences.
2. He that is convicted hereof, if he will not renounce it in the open congregation upon the Juffices Order, he is to be committed to prison, till he find two fureties not to do fo again, Ord. 2. May 1648.

3. If any (not different or diffracted) do by word or writing, ferfoufly maintain any creature to be God, or equall with God in his Attributes, or that God dwells in the creature: or shall denie the holinesse or righteousnesse of God, or say, That wicked persons, or wickedness, or wicked acts of swearing, drunkennesse, or lewdness, are not unholy against Gods word,

but are approved by him, or that fuch things, or Chap. 5 fuch persons therein are like God : or shall say, That these acts of denying and blaspheming God, or the holinesse or righteousnesse of God, or the acts of curfing God, or swearing profanely or falfely by the Name of God; or the acts of lying, flealing, conzening and defrauding others, Sodomie, drunkenness, filthy and lascivious speaking, are not things in themselves fhamefull, wicked, finfull, impious, abomin able, and deteftable in any person, or to be practised or done by any person or persons. Or shall professe, that the acts of adultery, drunkennesse, frearing, and the like open wickednesse, are in their own nature as holy and righteous, as the duties of prayer, preaching, or giving of thanks to God: or shall avowedly professe, that whatfoever is aded by them, whether whoredome, adultery, drunkennelle, or the like open wickedness; may be committed without sin; or that fich acts are acted by the true Gud, or by the Majestie of God, or the eternitie that is in them; that heaven and all happinesse confists in the acting of these things, which are sin and wickednesse, or that such men and women are most perfect, or like to God, or Eternicy, which do commit the greatest fins with lesse remorfe or fense. Or that there is no such thing really and truly, as unrighteousnesse, unholinesse, or fin, but as a man or woman judgeth thereof; Or that there is neither heaven nor hell, falvation nor damnation; or that these are one and the fame thing, and that there is not any diffination or difference truly between them.

For the first offence, he is to be imprisoned

Chap. 5

in the Gaole or house of correction, three moneths without bayle. For the second to be banished, and if he return, to suffer as a felon.

Sed.2.
The dety
and Power
of juffices
out of Sels
tions.

Any two justices of Peace upon complaint, may examine it on oath, and being proved by two witnesses, or the parties confession, may commit the offenders of the first rank to prifon without bail, and bind over the witnesses to the next gaole-delivery. 2. Two luftices may take bond with two subsidue men his fureties, from such persons convicted upon the tryall, and having renounced the opinion, that he will not so offend again. 3. To Justices, Quorum unus, may likewife fo examine the offenders of the second rank, and finding it, may order the offender to renounce his errour in the publick congregation of the parish, whence the complaint came or where the offence was done; which if he obey not, they are to fend him to Gaole, till he give bond with two fureties, fubfidy men, to them never to offend fo again. Ord. 2 May 1648. 4. And as for the offence of the third fort of offenders, any one Juffice may upon his own confession, or oath of two witnesses, convict the offender of the offence, and commit him to prison, or the house of correction for fix moneths, without bail or mainprife. Ord. 9 August 1650.

#### CHAP. VI.

Of the Lords Day, and Profanation thereof.

Or the better understanding of the Law herein, these things are to be known. 1. This day is by every one to be fanctified and kept holy: And men must be carefull herein, to exercise themselves in the duties of piety and true religion publickly, and every one on this day ( not having a reasonable excuse ) must diligently refort to some pulick place where the fervice of God is exercised, or must be present at some other place, in the practice of some religious duty, either of prayer, preaching, reading, or expounding the Scriptures, or conference upon the same. 2. None may on this day meet out of their own parish at any sports, whitfoever; nor may they meet within their own parish for bear-baiting, bull-baiting, interludes, or other unlawfull exercises, under pain to forfeit three shillings four pence for every offence, to be levied by diffresse and sale of goods, and for lack of diffrelle, to fit three hours in the flocks. Nor may any on this day keep, or be present at any wraftlings, shootings, bowl. ings, ringing of bels for pleasure, masque, wake, church-ale, dancing, games, sports, or pastimes whatfoever, under pain to forfeit five shillings, if he be above 14 years old; and twelve pence

Sea. I.

Sports.

Chap 6

Carriers.

be under 14 years old, to be levied by diftresse and fale of goods; or if no diffresse to be had, to fit in the flocks three hours. 3. No earrier may go with his horfes, wagoner, carter, or wain-

by him that hath the government of him, if he

man, may go with his cart, wagon, or waine; or drover with his cattel, on this day, under pain to forfeit twenty shillings for every offence, to be levied by diffreffe and fale of his goods, if he be questioned within fix weeks after the of-

fence done. But there shall be but one twenty

shillings forfeited for one journey, although he

passe through twenty parishes, and the twenty shillings that parish shall have where the distress

is first taken. 4. No butcher may kill or sell any

Refol. Judges. 1/33

Sell. 16.

Butcher.

Tradefmen.

victuals on this day, under pain to forfeit fix shillings eight pence, if it be questioned within fix

weeks after the offence done, to be levied by diffresse and sale of goods. 5. None may cry, shew forth, or put to sale any wares, merchandizes, fruits, herbs, goods or cattell, on this day, unlesse it be in an Inne or victualling house, and for such as cannot otherwise be provided for; and unleffe it be the crying and felling of

milk before nine in the morning, and after four in the afternoon, from the tenth of September to the tenth of March, and for the rest of the year before eight in the morning, and after five in the afternoon, under pain to forfeit the thing fo cryed, or offered to fale. 6. None may on this day, without good cause, travell, under pain to forfeit ten shillings; nor carry any burden, or do any worldly labour under pain to forfeit

five fhillings, both these forfeitures to be levied by diffress and sale of goods; and if no diffress

Tra eller.

be

be to be had . to fit in the stocks three hours. Chap. 6 7. None may on this day, or the dayes of humi- Drinking. liation or thanksgiving, use dancing profanely, Tipling. finging, drinking or tipling in any Tavern, Inne, Ale house, or Tobaco house, nor be there, or grind any corn at a mill, but upon cause to be allowed by one Justice of peace, under pain to forfeit ten shillings apiece, he that is in the Inne, and he that keeps the Inne; the millard, and he that owes the corn, to be levied by diffres, and sale of goods, and for lack of diffress, to be fet fix hours in the cage or flocks. 8. No Carrier. traveller, wagoner, butcher, higler, drover, or their servants shall come into their Inne or lodging on Saturday-night after, twelve a clock, nor go from thence Munday morning before one a clock, without necessary cause to be allowed by one Justice of peace, under pain of forteiture of ten shillings by the Inkeeper, and ten shillings by the traveller to be levied by diffres and sale of goods; and for lack of diffreffe, to be fet fix hours in the flocks or cage. 9. None may exe- Serving of cute any writ, order, or warrant on this day, days Procede. of humiliation or thanklgiving (but in case of treason, felony, breach of the peace, and profaning of the day) under pain to forfeit five pound to be levied by diffresse, and sale of goods, and for want of diffresse, to fit fix hours in the cage or flocks, and the serving of the Process is void. 10 None (but in case to be allowed by one Justice, or for Gods service, may travell with any boat, wherry, lighter, barge, horse, Co cher, coach, or fedan on this day, under pain of for- loat feiture of ten shillings, by him that is carried, and five shillings by him that doth carry, to be levied

Millard.

Void.

Chap.6 Officers.

levied by diffresse, and sale of goods; and so lack of diffresse, to fit fix hours in the stocks of 11. All Constables, Church-wardens overfeers of the poor, governours of companies of water men, and other officers, must upon fight and knowledge, or information of any of

Searsh.

Seize goods, these offences before named, committed, seize and secure the goods or wares cried, shewed forth, or put to sale, and make diligent search for the discovering, finding out, apprehending and punishing of them, under pain of twenty shillings, to be levied by diffresse, and sale of goods. And this punishment they must (as it seems ) endeavour by informing against the offender to a Justice of peace. 12. If the Justice doth not his duty, he forfeits five pound, to be levied by diffreste and sale of goods, by warrant from the Lord chief Justice, Lord chief Baron, or Judge of Affize, upon view, confession, or proof of Forfeitures, one witneffe. 13. All these forfeitures ( save only fomething in fome few cases after named ) must go to the poor of the parish, and the overplus in all cases is to be returned to the owner. 14. These Lawes are to be openly read at the Quarter- Seffions, and there, and at their Affizes, to be given in charge to the Grand Jury, and to be read the first Lords Day in March, every year. 15. If any book be found against the

The power and duty of of, they are to be burnt. Stat. 1. Car. 1.3 Car. 1. the juttices of Peace herein out of effons. Sell. 2.

Sep. 1650. 27.Sep. 1650. Any one Justice of Peace may, and must, upon view, confession, or oath of one witnesse,

della il all

Ord. 6. April 1644. All. 19. April. 1650.17.

morality of the Sabbath or fourth commandment, or to countenance the profanation there-

give

give a warrant under his hand and feal to the Chap. 6 Constables or church-wardens of the place or places where the offence is done, to levy by diftreffe and fale of goods the 3 s.4 d upon, and for lack of diffreffe to put in the flocks three hours, such as have been at, or used any unlawfull sports or pastimes in their own or any Sports. other parish, against the second branch of this chapter, Sell. 1. So one Justice may after such a conviction give a warrant under his hand and feal to the Conftables & Church-wardens of the place where the offence is done, to levy by distresse and fale of goods the 5 so of him that is above fourteen years old, and the 12 d of the Governour of him that is under fourteen yeers old; and for lack of diftreffe, to let him in the stocks three hours, that fiath kepts used, or been present at any unlawfull sports, against the Carrier. same second clause of this chap. 2. Any one Juflice may, and must upon confession, view or oath of two witnesses, within fix weeks after the offence done, give a warrant to the Conflables or church wardens of the placewhere the offence is done, to levy by diffres & sale of goods the 2cs forfeiture upon carryers, wainmen, drovers, and fuch like offenders, against the third clause of this chapter before; and the 6' 81 forfeiture up. on Butchers for killing or felling meat, against Butcher, the 4th clause of this chapter. 3. Any one Justice may, and must upon view, confession or proof of radesimen. one witnesse, give a warrant under his hand and feal, to the constables & church-wardens of the place where the offence is done, to feize goods cried, shewed or put to fale against the 5th clause before. Or he may ( as it feems ) give a Warrant before conviction to any other befides an officer,

Chap. 6

Traveller.

Officer, to feize and fecure fuch goods, to the end that the person may be afterwards proceeded against according to law. 4 Any one Justice may, and must upon view, confession. or one oath, give a warrant under his hand and feal to leavy by distresse and sale of goods the ten shillings of him that travelleth, and the five shillings of him that carieth any burden, or doth any worldly work on this day, against the fixth branch before, Sect. I. and for lack of diftreffe, to put him in the ftocks three hours; this Warrant to be directed to the Conftables and Church-wardens of the parish where the offence is done. 5. Any one Justice may, and must give a warrant to leavy by diffreffe and fale of goods, the forfeiture of ten shillings upon, or for lack of diffrelle, to fet in the flocks or cage fix hours, him that ( contrary to the feventh branch before, Sect. 1.) shall be on these days dancing, finging, or tippling in an Ale, or the like house, or grinding corn at a Mill, and so the ten shillings upon the Alehouse-keeper that entertaineth them, and Millard that grindeth. So any one Justice may give a Warrant to levy by diffreffe and fale of goods, the forfeiture of ten shillings upon, or for lack of diffresse to fer in the flocks or cage fix hours, a traveller, a wagoner, &c. that (contrary to the eight branch before, Sect. 1.) doth come into his lodging after twelve on the Saturday night; or go our before one a clock the Munday morning; and fo likewife the forfeiture of ten shillings upon the Inkeeper, &c. And fo any one Juffice may and must give a warrant to levy by distress and sale of goods, the forfeiture of 5 l. upon, or for

Millard.

Tippling.

Serving of Procede.

lack of diffres, to fet in the flocks or cage fix Chap.6 hours, him that ( contrary to the ninth branch before, Sect. 1.) doth execute any warrants or process on these dayes. And so also may one ]uflice do in the punishment of them that (contrary to the tenth branch before, Sect. 1 )do use any Coaches, Boars, &c. But in these four cases laft named, the Act doth not direct to whom the Warrant shall be sent, nor how the offender shall be convicted. Wherefore (it seems) the warrant must be sent to the Constable of the place where the offence is done. But it feems to me the offender cannot be convicted but by way of Indictment at a Seffions of the Peace: Quere of this; And whether the generall words of the Act of 1650. may not supply this defect, Any one Justice may and must also give a Officers? warrant to the high Conftables of the Hundred. or other Officer where the offence is committed, to levy by diffress and sale of goods, the 20 s. forfeiture upon Officers neglecting their duty (contrary to the eleventh branch before, Sect. 1.) but here's no direction how the Officer must be convicted; wherefore we take it, this must be also by Indictment, and cannot be otherwise. 7 Any one luftice of Peace, may and ought upon good cause shewed, to give license to any one to travell in, and with a Coach, Horfe, or Boat, contrary to the faid tenth branch before; or to be in an Inne or Taverne, or to grinde corn in a Mill, contrary to the faid feventh branch before, or to come later to, or go fooner from his Inne on the Saturday night, or Munday morning, contrary to the faid eight branch. 8 Any one luftice may and must give

Chap. 6

give warrant to feize, suppresse, and publikely burn fuch books as they find written against the morality of the fourth Commandment, or to countenance the profanation of the day. 9 Any luftice may, if he fee cause, give to the Informer a third part of the forfeitures of 3 s. 4 d. and 5 s. and 12 d. to be levied upon him that is present at, or doth keep or use unlawfull, sports, upon the second branch before: and of the forfeiture of 20 s. to be levied on Carriers, Drovers, &c. And of the fix shillings eight pence to be levied on butchers on the third branch, and of the ten shillings for travelling, and five shillings for carrying of burdens, and doing worldly work on the fixth branch. To The Lord Major of London, and every Justice, may and must take a speedy and effe-Auall course by such means as they think fir, to restrain the offences aforesaid : sed quere. What power is given by this clause; for I do not conceive that it doth give any further power then what is before given. II The Justices are to take order that rogues, vagabonds, and beggars, do on this day repair to fome Church, and there continue foberly during the divine wor They are also to take a strict acfhips. count of the observation of these things every moneth. Stat. 1. Car. 1. 3 Car. 1. Ord. 6. April 1644. Act, 19. April 1650. Act. 27. Septemb. 1650.

#### CHAP. VII.

# Against Swearing.

S touching this, these things are to be premised: I The former Act is repealed. 2 Every one that sweareth is to forfeit for the first offence as followeth: The Lord and all above him in degree xxx s. the Baronet of Knight, xx s. the Elq; x s. the Gent. vi s. viii d. Any other man or woman, fingle or married, iii s. iiii d. and for every offence afterwards twice as much. And for the tenth offence ( being proved by verdict or confession ) he is to be bound with furcties to the good behaviour for three yeers And for lack of payment, or giving fecurity to pay it, and diffreffe to levy it. if he be above twelve yeers old, he is to fit by the heels in the stocks three hours for the first offence, and fix hours for every offence after: If under twelve yeers, he is to be whipped by the Confiable, or Mafter, or Father, in his presence. 3 Swearing after the Surety for the good behaviour given, is a breach of the bond. Any Officer, Constable, Church-warden, or Overfeer of the poor, may, ex officio, that heareth it, bring the offender to a Juftice to be punished. 5 Any other person by warrant of a Justice, may bring such persons before the Juflice. 6 The Juftice may keep arecord of the conviction, & certifie it to the next Seffions. 7 He that is fued for doing any thing on this law, may plead the generall iffue; and if it go with

Chap.8

The power and duty of the Justice of Peace herein out of Schoons.

him, shall recover treble costs. Any one Justice of Peace may, I send his warrant to bring the ossender before him. 2 May upon hearing, consession, or oath of one witnesse, by his warrant (which it seems, may be made to any Officer or others) levy by distresse and sale of goods and chattels, giving back the overplus of the summe forsested 3 And for lack thereof, or surety given to pay it, he may give his warrant to the Constable to require the corporall punishment aforesaid to be done. A2.

22. June 1650.

# CHAP. VIII.

Of Disturbing a Minister.

The Office and power of the Iutices herein out of Seis fion.

Ny Justice of Peace, upon complaint, may commit to fafe cuftody for fix dayes, him that maliciously disturbeth a Minister in doing Divine Service; him that shall procure this diffurbance, and him that shall rescue such a Disturber, being apprehended. But there must be two Justices of Peace to joyn in the examination of the offence and they must do it within the fix dayes. And these upon the parties confession, or oath of two Witnesses, may commit him to Gaol for three moneths, and till the next Quarter Seffions, 1. M.Se 1.2.chap. 3. some doubt of the continuance of this Law, and thinkit to be repealed by I. Eliz. 21. The berter opinion is, that it is in force, and doth continue.

CHAP.

## CHAP. IX.

# Of depravers of the Sacrament.

There must be three Justices of Peace; The duty Querum unus, to take Information upon and power the oath of two persons, against him that doth of Justice deprave, or speak unreverently of the Sacra- of Peace ment of the Lords Supper. And to bail the offender: and to bind the Accuser and Without and the first pounds apiece to give evidence at the day of Trial. And this it seems they may do out of Sessions, I Edv. 6. I. I Eliz. I. Dal. I. P. 49.

#### CHAP. X.

# Of Popish Priests and other Papists and Recusants.

IF any Agnus Dei be discovered to the Justice The power of Peace, he must acquaint one of the Privie and duty of Councel with it within fourteen dayes, Sub the lustices poena Premunire. 13, El 2.

If any Jesuit or priest be made known to herein out of him, he must acquaint one of the Privy Councel with it within twenty and eight dayes, Sub pana 200 Marks. 27. El. 2.

And one Justice of Peace may require a Popish Recusant, within three moneths after his conviction

# 34 Of Popifo Priests and Recusants.

Chap. 10 conviction, to submit and declare his conformity to the laws of Recusants; and in case he do not, he may (if it be not a Feme Covert) require him to abjure the Realm; but the Abjura-

not, he may (if it be not a Feme Covert) reevert quire him to abjure the Realm: but the AbjuraAbjuration. tion must be at the Quarter Sessions 35. Eliz. 1.
Q. Sessions. 21. Jac. 28.

Yet a Popish Recusant may abjure before two Justices of Peace by 35 Elizabeth 2. So the Justice may within three dayes after the thing done, take Information of Masse said,

3 Fac.5.

But there must be two Justices of Peace to require a Popish Recusant above sixteen years old, which shall travell above five miles from his dwelling without licence, if he have leffe then twenty Marks free-hold per annum, or fourty pounds in goods, to conform in three moneths, or else abjure. And this he must certifie to the Affizes, 35. Eli.2. So that there must be two Justices of Peace to do these things following viz. To examine one suspected to be a lesuit or Priest that resuseth to answer directly. and to commit him to Gaol without bail till he do fo. 35 El.2. To give an oath to a Recufant licen'ed by him and three others to travel. 3 7ac. 5. To fearch their houses, who, or whose Wives are Recusants, for Popish Books and Reliques, and burn them, or if they be of value, deface and reftore them. To take the submission of one reconciled to the Pope, within fix dayes after his return, 3. Jac.4. And there must be two Juflices, Quorum unus, to commit to prison a Feme Covers Reculant, not conforming in three months, unless her Husband will pay ten pounds a month, or the third part of his Lands. 7 Jac. 6.

See

Certificat.

Maffe.

Jefuite Commits mente Bail. Oath,

Popish B. oks.

Recufant,

See more in Dalt. J.P. 130,131,132. &c. Stat. Chap. 11 35.El.2.27.El.2.

#### CHAP. XI.

# Of Felony.

IN all Cases of Felony done, whether it be greater or leffer Felonie, any one Juftice The power of peace may 1. cause Hue and crie, Search and duty of and fresh suit to be made for the Felon by all Sheriffs, and other officers, and others, I. & 2. in out of P. & M. c. 13. 1. & 2. Phil. & Mar. Cap. 10. Selions. Dalt. J. P. Cap. 20. 2. Cause to be arrested i ue and and imprisoned such as are suspicious, ib. 3. Ex. amine them ( when they are brought before them) and the witnesses against them, and thereby inform himself of the fact and circumstances thamine. thereof As, 1. The party offending is to be examined without oath. 2. The party offended. robbed, drc. and witnesses, are to be examined upon oath. And he must ask the party robbed if he know the thief. For without oath they are not to be given in evidence. And although any man, how mean foever, may be allowed as a competent wirnesse, yet some heed is to be given to the witnesses, according to the old verses:

Conditio, fexus, atas, diferetio, fama, Et fortuna, fides in testibus ipfa requires. 3. In the examination of the witnesses against offenders, and of offenders themselves, these things are confiderable, and accordingly the question

uffices of Peace herecry. Search. Sect.2. Sect.3.

Chap. I'I question to be made to discover the causes of suspition. 1.Of the name of the person suspectif he have not two names, or do not use to change his name. 2. His quality. And because of. 1. His parentage, what they were. 2. His ability of body; if he be likely to do such a thing. 3. His nature; if it be inclinable to fuch a thing, 4. His estate; if he have an estate, or be needy. 5. His life; if idle, drunken, &c. if he ever did any fuch thing before. 6. His company; if it be fuspicious. 7 His repute; if of evil or good name. 3. Of the Marks or Signes. 1. If any blood, if it be a man flain, be about him; any of the goods, if it be goods stollen, or any of the goods of the man flain be found with him 2. If he blush, or change his countenance, look downwards, is filent, or trembleth when he is examined. 3. If his answers be false, doubtfull, repugnant, or idle. 4. if he hath offered an agreement, defired his neighbours not to fpeak of it. 5. The measure of his, or his horfes foot. 6 The bleeding of the dead body in his presence. 7. If he flie, or lie hid, and obfoure. 8. If he be the first that doth find the party murthered, and some other suspicious signes accompany it. 4. Of the time and place, when and where it was done, and where the person suspect then was. And of these and other circumftances, the examination is to be made. Dalt. Fuft. of P.373. 5. It is good to let the witneffes Subscribe their names to the Examinations. 6. The Examination of one not able to come to the Affizes, may be taken by a Justice of peace, and certified thither, 27. Eliz. 13. Dalt. 7.P. 48. 7. He that confesseth a Felony, may accuse others thers thereof, Dalt. Juft. P. in cap. 3.

4. Within two dayes after the Examination taken, he must put so much of the same as is materiall to prove the Felony, into writing. 5. Certifie it with the Recognizances for bail and Certificate. profecution, to the next Goale-delivery, or Quarter Seffions, as the case is : wherein these things are to be known. I. If it be a greater Felony to be determined at the Goal delivery, then it must be certified thither. 2. If it be a Petit Larceny, or other small offence, he may Bind over. bind over the Informer, and certifie the Examination to the Quarter Seffions, where the Justices may, and ought to determine it. 3. If it be a greater Felony, which they have power Certificate, there to determine, it may be certified thither alfo. 4. The whole case is to be certified; as well that which may clear, as that which may accuse him, Dalt. J. P. fol. 63, 64 Cap. 3. fol. 411. Yet it is held that a Justice of peace regularly is not to record and then to certifie the evidence that is given against the Keepers of the liberty, Dalt. 7. P. in Cap. 1 13.5. Examinations taken by Juffices of peace in one County, may be certified and used in another County, Dalt. 7. P. fol. 37 0.

7. Lieher he must bail the Felon, if he be Seal 5. bailable. But 1. To bail a Felon, there must be two Justices of peace, Quorum unus, present to do ir. 2. Then it must be certified with the

Examinations.

8. Or if not, he must fend him with a Mit- Sell 6. timus to Goal, ib. The next thing here to do is Mittimus. 9. To bind over the party abused, robbed, dec. Sell.7. or Informer, to profecute effectually, and with Build over? neffes that can fay any thing materiall, to the

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Lail.

Cha. It next Quarter Seffions, or Gaol-delivery, (as the case is ) to prosecute and give evidence; and the Partie grieved it is best to bind to preferre a bill of Indictment, as well as to give evidence.

Certificat.

1. This bond must be also certified with the Examinations and bail bonds, if there be any, to the Gaol-delivery or Quarter Seffions, 2. If the party robbed, doc. refuse to be bound, he cannot recover of the Hundred. 2. If any materiall witnesse refuse (being required by the

Commit. ment.

Good beha-

viour. Sell. 8.

Eind ove-

Discharge.

Fail.

Sell. 9.

luftice) to be bound to give evidence, he may bind him to the good behaviour, and for want of fureries fend him to Gaol. But if he can give no materiall evidence, contra. 10. If the case be Homicide se defendende, or by an Infant, or the like, or the Juffice of Peace have no evidence against the Felon, or the witnesses be suspicious, or the like; Yet if there be a Felony committed, and the Party be at all suspicious, he may examine him, and shall do well to bind him over; for though the case be never so clear for matter of fact, yet it feems not fafe for a Justice of Peace to discharge him without bail, for happily more Evidence may come in; his best way will be therefore to get him bailed, and make the case known to the Judges. But if the case be clear in point of Law, as where the Felony charged upon him is for flealing a Grey-hound, or the like, which is no Felony, there happily the Justice may discharge him, and not bind him over, Dalt FP. fel. 367,368. 11. It is doubted, (however the practice be)

that a Justice of Peace cannot justifie upon a bare furmife, without oath, except it be where

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one Felon doth accuse another before an In- Chab. I I diffment be found to arrest a man for Felony, Arrest. or break any mans house to search for a Felon or search. stollen Goods. And it hath been said that after the Indiament, it must be in open court, for it is in the nature of a Capias. But the contrary is practifed at this day. And this he may do, when any man is charged, and the Justice hath taken examination, he may grant his Warrant to the Constable of the place to see the Kings Peace kept in the taking and bringing of the Offender before him, and then the party that giveth the information, and doth suspect, he is to arrest the Offender; which done, he may either carry him to a Justice of Peace or Conftable, or to Gaol at his choice, Cook 4. Part of his Inft fol. 177. or he may fend Warrants to fearth or ar- Sell. 10. rest. For this feems necessary at this day, for Conflables are so ignorant and fearfull, that they dare not do any thing without the Juffices warrant. Befides, when the Juffice of Peace bath information upon oath before him, he bath good cause to suspect, and so may proceed upon his own suspicion Dalt. 7. P.4.376,408.374. And however, the Officer upon the Justice of Peace warrant is excused.

12. The Juffices of peace cannot (out of Sef- Seff. 11. fions ) punish Petit Lar ceny by their discretion tetit Lar e. (as some have thought) but must bind the offen- by. der ever, and they must be tried and quit at Sef- ! ind over, fions, Dalt. J.P. in Chap. 101. What is Felony, Selhous. fee in the Seffions charge.

#### CHAP. XII.

### Of the Peace.

Sell.I.

Findly, and harmlesse behaviour towards the Keepers of the Liberty and the people, which is required of all. 2 He that breaketh this, breaketh the peace. But most properly he that offereth any actual or injurious force is said to break the peace. 3 All men are bound to endeavour to keep it between others, and to suppresse the breach of it. 4 Divers Officers have an especiall charge annexed to their Office to look to it.

Sell 2.
The power and duty of the Iutice of Peace herein out of Selsions.
Arreft.

The Justices of peace have power to prevent offences against the Peace before they are done, and to punish them after they are done. For they are to see the peace kept, and for that purpole to see the Laws made for the preservation thereof executed, require Sureties where they fear it, pacific such as begin to break the peace, arrest affrayers, &c. such as break the peace before them, or upon themselves or others and fond them to Gaol, unlesse they give Sureties to keep the peace, which they may require And if any one be dangerously hurt of them. in the affray, fend him to prison that did it. And 1 All this any one Justice of peace may do. 2 Whatfoever any other private man, or Officer may do for the keeping of the Peace, a Justice of Peace may much more do, Dalt.I.P.4.41,42. 3. Any

Commit-

Any Justice of Peace that hath any cause to Chap. 13 suspect the breach of the peace in any place, Sed 2. may fend his Warrant to the Officers, or others, there to take care to prevent it, Cook 4. Part of his Inft. 177. 14. H. 8. 16. 4 Any one Ju- Sed.4. flice of Peace may take away the Armes, and Commits imprison such as he seeth to be riotously affembled, or go armed, that wear coats of Mail fecretly, or carry Dags or Piftols; or he may enquire and prize the armour by a Jury, Cook 5. 71. Dalt. 1. P. in Cap 9. So he may command the arms to be taken from fuch prisoners as are taken and brought before him Dalt 3.P. f. 42, 43.

#### CHAP. XIII.

# Of Watch and Ward.

N this these things are to be known, I None but Inhabitants of the fame Town are com- Sell.1. pellable to watch or ward. 2 It must be by men of discretion, able bodies, and sufficiently armed. 3 It must be by turn, or by the house; according to the custome and use of the place. 4 The Constable ex officio is to order it, and he Constable. may enlarge it as there is occasion, but he cannot change the course of it at his pleasure, and make some watch, and excuse others. 5 If any neglect or refuse to do his duty, the Constable may present this default at the Assizes or Selfions, or complain of it to a Justice of Peace. And

Stocks

Chap. 13 And some hold, the Constable may put him in the Stocks for his contempt. 6 This Watch is from Ascension to Michaelman, and must be from Sun to Sun; and the Warding then ( in congruity of Reason ) must be the rest of the twenty and four hours of the day. 7 These Watch and Ward-men are to pole all men to arrest and secure till morning Rogues and others suspicious, and them to bring to a Juffice of Peace to be examined. Dalt. J. P. Ch. 60. Winch 13. Ed. 1.4. 5. Ed. 3 14. Or if they will, they may deliver them to the Constable, who must take care of them. And if any resist them, and go away, they may fend Hue and cry after them; and upon this any man may arreft them. 8 For default of this watch and ward, the Township may be punished.

Sea.2. I he power and duty of the Inflices of eace hereta our of Selsions.

Any one Justice of peace may fet this warch between Ascension and Michaelmas for the arresting of suspicious persons, Winch. 13 Ed. 1. and he may direct the manner of it. Also he may, if he fee cause, appoint Warding by day for the apprehending of Rogues, Refel. of the Judges, temp. Car. 1633. And it feems reafonable then, that if Officers or others neglect it, that the Juftices may require a conformity; and if they refuse, or neglect, may bind the offenders to the good behaviour at the leaft. otherwise the service will not be enforced.

#### HAP. XIV.

# Of Night-walkers.

Ny one Justice of Peace may cause such The power persons, strangers or others, that are ful and duty of fpicious, that fleep by day, and walk by nights of Peace especially if they haunt lewd houses, or keep here nout lewd company, or commit out rages; to be of seisions. arrefted, and force them to give Surety for Arreft. their good behaviour. 13. H.7. 10. Dalt. J.P. haviour. in Ch. 25.

#### CHAP. XV.

## Of Forcible Entry, &c. Unlawful Assemblies, &c.

T is an offence by which unlawfull violence Sed. 1. is used to persons or things: and this is Force. either implied, as in every Trespasse, Rescous and Diffeifin, there is a Force implied in Law; or it is actuall with Weapons, number of perfons, &c. which alwayes carrieth fome fearfull shew or matter of terrour with it. The actually Force also is either simple, when it is joyned with no other crime, as entry into lands onely; or compound, when it is mixt with fome other Fact, which of it felf is criminall. As if any by force enter into anothers Poffethon,

# Unlawfull Assemblies, &c.

Chap. 15 and kill a man, or ravish a woman there,

Sed. 2. Forcible entry.

A forcible entry is a violent and actuall entry into any lands, houses, &c. or taking of any distresse by any person weaponed, whether he offer violence, or fear of hurt to any there, or furiously drive out any out of the possession thereof. And sometimes it is taken for a Writ grounded upon the Statute.

Sett. 3. For ible detainer.

A forcible Detainer is a violent act of refiftance by a ftrong hand, of men weaponed with harnesse, or other action of fear, in the same place, or elsewhere, by which the lawfull entry of lustices or others is barred or hindred.

What shall be said to be a forcible entry into or holding of Lands.

The Statutes of 5.R 2 7.15.R.2.2.8.H.6 9. give charge, that none shall enter into any Lands, but where entry is given them by Law, and then in a milde and a peaceable manner. And that none shall enter into or hold a possession of Lands with a strong hand, and with force. For the opening whereof we must know, I That one or more may commit this offence. An Infant or a Feme Covert, by their own act may commit a forcible entry or detainer : But they cannot do it by commandment as another man may do. 3 Where divers do come in a company to do this act, and one of them onely doth afe the violence, they are all guilty. But herein we must take this difference, where divers come together in one place to do an mnlawfull thing and one only doth it, and the reft frand by, and do nothing; in this case they are all guilty as principall doers, and the act of one shall be faid to be the act of all. So that if divers come to enter into Lands, where their entry is

not lawful, and all of them buttone do enter and Chap. 15 demean themselves peaceably, and bee onely doth enter with force, and after entry doth hold with violence; this, albeit it be against their wille, is a forcible entry. And fo it feemeth to be, where some of them do come without an evil intent, if they come together, or if they come after, and be aiding and countenancing to the Offenders. But when divers come together to do a lawfull Act, as to distrain for Rent due, or the like; and in that case, some of them, without any intent before, or allowance or countenance then by the reft, especially if they discountenance it, fall to outrage, and commit this or the like offence; in this case it seems the rest are not guilty. 4. A man shall not be guilty of this offence by any connfell or command before, or agreement after, unleffe he be present at the act done. But for further opening hereof, take these things. mafter come with his fervants, his fervants knowing nothing of it, and he enter with force; his fervants shall not be faid to be guilty. 2 If a man enter with force to the use of another person that is not present, or by commandment of another not present, who agreeth to it: yet he is not punishable for this force. 3 If many come together, and some of them do onely enter by force, and the reft keep it by force, they are all alike guilty, both the forcible entry, and detainer. 5 Though the King, or his Tenant could not be outed of their poffession, yet this offence may be committed in this Land, and then is punishable as in other cases. Though he get no possession hereby, yet it

Chap. 15 may be this offence, and punishable. 7 This offence may be committed about a rent, when one doth diffrain with force, be the rent due or not, or when one is coming to diffrain, and the Tenant doth threaten to kill, or forcibly refift him, forestall the way, or rescue the difireffe, or the like; to about a Common, as when one doth forcibly keep his Cartell where he hath no Common, or forcibly refift another man that hath Common, 8 The expresse force is that which is forbidden, when it is either with molticude, (i, ) a greater company then fuch persons have usually attending on them; yet one or two, if they be armed, doe, may commit this offence. Or it is with ftrong hand ( that is ) with apparent violence: In word, by threatning speeches, as to say, they will keep the possession if it cost them their lives, or in fpight of the other being in with him; or if he threaten to kill or hurt the body of him that is in, if he will not go out; or out, if he offer to come in efpecially if this make them to go out, or keep off. Or deed; by turbulent behaviour. or actuall violence offered to the person of another? Or elfe that they be furnished with some Weapons by them not usually born, as Swords, Bucklers, Pikes, Javelins, Bills, Clubs, Pitchforks, Staves, Halberts, Bowes and Arrowes, Crofs-bowes, Guns, Harnels, Armour, or the like: or by cafting of flones, blocks, pouring of hot coals, scalding water, or lead, or with any other thing wherewith one may hurt the person of another: and therefore if any enter thus, though no man oppose them, this is a Forcible carry; much more, if being entred they

they there offer any violence, or fear of hurt to Chap. 15 the person of another that is in possession with him; and most of all, if he shall furiously and forcibly expell and drive another out of the possession: for if one enter in at the door, being open, peaceably, but then he doth forcibly put out them that he finds in possession, this is a Forcible Entry. If a man have a force laid in another house by the place, this may make him guilty of this offence of Forcible Detainer. So if a man after his peaceable Entry get more Weapons into the house then were there, or usually he doth bear, or if he make use of the weapons in the house, to defend his possession: but the having of them there, if they were there before, is not a force punishable. 9 If any Justice of peace come to view the force in a house, and they refuse to let him in this of it felf is a forcible detainer in all cases, though it be but by one person, and no weapon shewed. But if a Justice of Peace come not there upon complaint, and of purpose, but by accident, or to other ends, and the parties refuse to let him in; this is no forcible detainer. So neither if he refuse to open the door to his adversary, or to any other befides the Justice of peace. So if he finde any multitude of persons, arms, or the like So if the Diffeisor forestalleth the way of the Diffeifed with force, that hee dare not come near: But to refuse to open the doors to the other party, is no forcible detainer. And if I be in possession of a house, and another that hath more right would enter, I may keep him out with my ordinary company and weapons, but not otherwife, for fear of the guilt

Chap. 15 guilt of a Forcible detainer. But if my eftare and possession be lawfull, and I or my Anceftors have peaceably enjoyed it for three years together before the Indictment brought if so my entry were peaceable, not forcible, and I have continued three years possession peaceably and without force, I am in possession by right, and of a lawfull estate, and not by wrong, and I have continued this possession all these three yeers without interruption, and not dis-continued, and my estate is not ended; in these cases, it seems, I may keep my possession with force, and this is no forcible Detainer, which by plea to the Indicament will avoid Fine, Imprisonment, and Restitution. to threaten a man, that if he come to enter, he will burn his house, or spoil his goods therein: To out trees upon the Land, or carry goods out of the house after a man hath entred, the door being open, or onely latched, to enter without multitude or offenfive weapons: So by fair means to perswade or intice any body out of the house, or by that means to keep them out; to take a man being out of the place and imprison him, and in the mean while to fend one to enter into the Land or House, or to deny to go out, and by Imprisonment keep him out; these things will not make a foreible entry or detainer: and therefore if in these cases the other side make a forcible entry upon them, they may be put out again. 10 Though the party outled be dead, that no restitution can be made, yet the forcible entry shall be punished. II If one enter into a house or land with an intent to cut or carry away

away his goods or corn, &c. or the like tref- Chap. 15 paffe, though he do not put him hereby out of poffession; this will be a forcible entry punishable by these statutes, if it be with strong hand, or with multitude 12. So if any enter peaceably, and after entry, by force do any fuch act. 12. To detein a house Mortgaged by force from the Mortgager, is a forcible detainer. 14. To go over the land with force or multitude to another place or end, is not a forcible entry. Nor is the force that is used with the Warrant, and in the maintenance of the law, any offence within these Statutes, but lawfull: So is the force used in the apprehending of Felons, by Sheriffes and other officers, in executing Writs. and in doing their office, in keeping the Peace, in defence of my person and house, and the like: But for the further opening hereof these cases must be heeded. If two or more men be in harnesse, having also in their hands divers weapons, and they enter into the house of another, to have the possession thereof without more doing, and hereupon the other partie that was in possession departeth and goeth far off; this is a forcible entry. But if two men in that manner break in the house, the door being open, and it is not known to what intent, the Tenants being in quiet, and no violence is used to them, but they that keep the possession run away; this is no forcible entrie. If a man have two houses neer adjoyning, the one by a defeafible Title, the other by a good Title, and he keepeth a force in the house he hath by a good Title, to keep out of the other house; this is a forcible detainer. If a man putterh ano-

Chap. 15 ther out of his house by force, leaveth it, an putteth in one of his fervants in a peaceable manner, and keepeth the partie put out in prifon, this is not a forcible detaining, though it be a forcible entrie If one sole person alone break the house of another, and enter in by the windowes against the will of the owner, and then threatneth the partie, and he for fear doth forfake the house; this is a forcible entrie.

If a forcible entrie be made into the house of another, with intent to fight with the party there dwelling, and thereupon the partie in possession, and they that enter upon him, do all depart out of the house, this is no forcible entrie. So if one enter a house to seize a werd, and is kept out by force, this is no forcible detainer. So if a leffer enter with force to see if any wast be done by the lessee, this is no entrie by force, although he remain there a whole day and night after. So to enter a house in time of War to fortifie it against enemies is no forcible entrie.

So if the Lord diffrain for Rent, where no Rent is due, and he do it with force, this is no forcible entrie. So if one break and enter the house to part an affray there, or to apprehend a felon, or one that hath dangerously hurt another, and is escaped and fled into the house; But if the man that is hurt be in no danger, it is otherwise. So if a Gaoler bring his prisoners into the house, being his own house for safe keeping, and keep a guard about them, this is neither forcible entrie nor forcible detainer.

If I hear that certain fellowes will come to my house, to beat, rob, or kill me, and I take in force to defend my felf, this is no for-

cible

cible detainer. But if I hear they are coming Cha. 15 to take possession, and I gather for to keep my

possession; this is a forcible detainer,

If one enter forcibly in a house upon another, and imprison in the same house him that was in first, and himself remaineth there with force, this is a forcible detaining. If a man claimeth common to Land, or a Rent out of it, and the Land is detained with force that he cannot use his common, or have his Rent by diffress this is a detainer with force. But if one have a Warren in anothers Land, and the land is detained with force when he would use his Warren. Or one doth enter into the Park of another to distrain his game, and the owner of the Park do keep him out by force, this is no detainer by force.

If a man make a lease for life, and after grant the Reversion to the same lessee uponcondition on the part of the leffee, which condition is broken, and the leffor doth enter with force to get the possession of the Land; this is a forcible entrie. So if the leffee doth alien in Fee, and thereby forfeit the Land, and the leftor die before his entrie, and then his fon and heir entet upon the leffee with force, this shall be a forcible entrie. All these cases are in Master Rifdens Reading, Dalt. 9.P. cap. 22. 76. Poulton de pace 34,35, (Tc.Cook 8.120.

The Partie grieved by a forcible Entry or Detainer, may be relieved, and the offender The power punished divers wayes, (amongst others) by and duty the help of the Justices of the Peace, who may ces of Peace do it upon the Statute of Northampton, which is he sin one in the nature of a Commission, wherein they of Sessions, proceed as Ministers onely, or by Indictment

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upon 8, H, 6, at the Quarter Sellions, which being found there, the parry shall be restored to his possession by a Writ of Restitution from the Court to the Sheriff, Dier 187. Crompt. I. P. 165. But the most speedy and common remedy is. by complaint to one or more Justices of Peace, who may thereupon go to the place where the Force is, and if it be in an house, he may enter and fearch, and if any force of Armour or Weapon be worn or born against this Statute. and if any fuch offenders be found, he may commit them to prison, and may seize, and preise the armour so found with them; and he

View.

Commit ment.

Record.

Fine.

Ce tificate.

ought to record all that which he shall do in this behalf, and thereout to fend some Estreat into the Exchequer, that the Common-wealth may be answered of the Armor or of the value there-Restitution, of. But here again, the Justice must not make

any Restitution to the partie outed, but must only remove the force. And concerning the offenders fo found and committed by the faid Juflice of Peace : It seemeth the Justice ( at his discretion may fine them, and upon payment thereof, or Sureties found for the same, the said Juffice may deliver the offenders, even as in the former Scatutes of 15. R. 2 & 8.H.6. Or elfe the faid Juffice may record fuch force, and commit the offenders, and after certifie the Record in the upper Bench, or to the Justices of the Gaol-delivery, or to the generall Seffions of the Peace : or else the same Justice or Justices of the Peace may proceed otherwise: for

every Justice of Feace upon complaint to him made, or upon other notice to him given of any Forcible Entry into, or holding, or Detainer of

of Poffession of any Lands, Tenements, or Cha.15 other possessions ( or of any Benefices or offices of the Church ) contrary to these Statutes, by the partie grieved without any examining, questioning, or standing upon the right or Title of either party, may and ought in convenient time (at the cost of the party grieved) to do execution of the Statutes aforefaid; And as to the Justices duty & power in relation to the aid he may require, removing the force imprisonment of the parties, and making record of the force, these things are to be known. I. He ought to go to the place where fuch force shalbe view it. 2. He may command and take with him sufficient power of the County or Town by his discretion, and the Sheriffe also, if need be, to aid him, for the better execution of his bufinesse, as well for the arresting of such offenders, as also for removing of the Force, & for the conveying of them to the next Gaole. And as to this, these things must be known. I If he require any mankind, be they Dukes, Earls, Barons, Lords, or men of lower degree, apprentices fervants, and others, that are not about the apprehending of Felons, or some other publike service. But women and children under fourteen years old, Aliens that are no Denizens, men that are not compos mentis, and prisoners are not bound. 2. These he may require by word of mouth without a Warrant in writing. But fo can none other officer. 3 He may arrest or imprison and fine such as refuse to aid him. 3. He ought to arrest and remove all such offenders, as at his coming he shall see or find continuing the Force, and may take away their E 3 Wes-

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Weapons, Harnesse, and Armour, and presently cause them to be preised, and after to be anfwered to the Common wealth as forfeited, or the value thereof. And if the doors be shut, and they within the house shall deny the lustice to enter, it feemeth he may break open the House to remove the Force, But if such offenders being in the house at the coming of the Inflice, shall make no refistance, nor make shew of any force; then the Justice cannot arrest or remove them, except upon the enquiry a Force be found. And if the house or land which is holden with force, shall extend into two Counties, and the offenders move their force into that part of the house or land, which is in the other County, when the Justice doth come, it is faid by some he cannot then remove the force, but others hold the contrarie. 4 He ought to make a Record of fuch Force by him viewed: Wherein are these things to be known. 1. If the Justice come to remove the Force. and the offenders escape before they can be arrefted, yet the Justice must record the forcible detainer. 2. If the Justice be put out of Commission, or made Sheriffe before he come to the place, he cannot then record it. 3. If the Justice Record a force and send to prison where no force is, the partie is remedileffe. 4 If a rescue be made of the prisoners committed by them, they may Record this also. But if he Record a murther, or man-flaughter, this is void. This Record shall be a sufficient conviction of the offenders, and the parties shall not be allowed to traverse it. 5. And this Becord (made out of Sestions by a particular Justice ) the fame

Record.

fame Juffice may keep by him, or he may make Cha. IS it indented, and certifie the one part into the Traverie. upper Bench, or he may leave it with the Clerk Ceitificate, of the Peace, and the other part he may keep himself 5. He ought to commit immediatly to Commit. the next Gaol, all such persons as he shall find ment. and see continuing the Force at his coming to the place, the faid offenders there to remain convict by his own eye, testimony, and record, untill they have paid a Fine to the King: For this fight and view of the Force by the Justice, (being a judge of record) maketh his record thereof ( in the judgement of the Law.) as strong and effectuall, as if the offenders had confessed the Force before him, and ( touching the reftraining of the traverse) more effectuall, then if the Force had been found by a Jury upon the evidence of others. But the Force must be in the presence or view of the Justice of the Peace, or else he can neither record ir, nor yet commit the offenders : for upon force found by enquiry onely. ( although this Enquiry presentment of the Jury be a conviction of the offenders, it is thought the Justice of Peace, can neither fine nor fend to Gaol. But frowever he is to remove the offenders that be prefent, that fo he may restore the other, and may bind the offenders to the good behaviour. And if they be gone, yet he may make his Warrant to take them, and fend them to Gaol untill they have found sureties for their good behaviour. But for the further opening of this, these things must be known. I. The Justice of Peace may nor view a force, or fine, or imprison in his own case. And yet if he come there, and they E 4

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make an affault upon his person, he may send them to Gaol for this offence. 2. If one enter into a house upon another with force, and when the Justice comes both fides are fighting for the poffession, the Justice may remove the force, but cannot give possession to the owner of the house. 2. If he that hath entred forcibly hath driven the owner to one end or part of the house onely, the luftice may remove and commit them that have fo entred. 4 If there be men in arms in another house near, though in another County, to bear them that take possession of the house in this County; in this case it is faid the Justices may remove them. 4 It the Justices come there by Accident where the force is newly done, they cannot arrest or imprison, unlesse there be a forcible detainer in the view. 5. If the offenders before Arrest. escape for that time before the arrest, and after the same day the Justices meet them in another place, in this case they cannot commit them to prison. 6. If the Justices coming to the place meet some of the offenders by the way in harnesse, or see some going thither in harnesse, to keep the place; they cannot upon this commit them to prison. 7. the Justices of Peace come, the offenders efcape into another County; the Justices of Peace cannot arrest them there, albeit it be upon fresh suite. And yet it is said by some, that if in this case before arrest of the parties they flie, fo that the Justices may arrest them. but not commit them to prison. But I doubt ir. And yet if both houses be in one County, it is out of question. So if they get into a Caffile

Caftle in the fame County, the Justices may Cha. 15 upon fresh suit arrest them and commit them. All this is to be done there only where the party grieved ( in the sense of the Statute ) which is the party that is to have restitution, doth complain, tender the cofts, and not where any man doth complain. And for the opening hereof take these cases. If a man have a Rent iffuing out of the Land of another, which Land is detained with force when he would diffrain, he that is so disturbed is not a partie grieved, to be relieved by the Statute. And if a man be feifed of Land to which Common is appendant is diffeised of the Common, and then aliens the Land to his fon and dieth, after which the Land out of which this Common is iffuing is detained with force; in this case the son is not a partie grieved by this Statute. So if after the fathers death, a stranger doth enter by abatement into the Land, and holdeth by force, the fon is not a partie grieved within the Statute. So if a man be feifed of Land, of which such a forcible entry is made and dieth, and dieth before he complain, in this case his fon and heir cannot complain for this entrie. So if a man devise his Land by will and dieth, and before any entrie made by the devise, a force is made, the device is not a partie grieved. But if a man make a lease for five yeers on condition that if within the first two yeers the leffee pay to him ten pound, he shall have the Fee, and Livery is made accordingly; in this case if any fuch entrie be within the five yeers, the leffee is a partie grieved, albeit the Condition be not performed. So if a man be possessed of a Tenement

Chap. 15 ment, and make the heirs or IS his executors, and dieth, IS being also dead, leaving iffue a daughter, his wife with child of another daughter; the first enters, and then the other is born, then such force is committed; in this case both the daughters are parties grieved. So if one enter by diffeifin to the use of another. who doth after agree to it, and then a forcible entry is made; in this case neither the one nor the other is a parry grieved So if one enter by diffeifin to the use of an Infant, who doth agree to it, and then such a foreible entry is made; in this case the Infant is not a party grieved. And generally the party to whom Restitution shall be made, he shall be accounted a party grieved, within the meaning of this Statute. And for this fee afterwards.

Pine.

Eftreat.

7 The same Justices of Peace, or some of them that fhall fee the Force (as having best knowledge of the matter, and of the quantity of the offence, and having the custody of this Record) are the proper ladges over this offence, and therefore may affesse the Fine upon every such offender. But the Fine must be imposed upon every offender feverally, and not upon them joyntly. And the Justice ought to estreat the same fine, and to fend the Estreat into the Exchequer: and that from thence the Sheriffe may be commanded to levy the faid Fine to the Common wealths use. But upon the same fine so affeffed and estreated, it seemeth the Juflice is to deliver the offender. Also upon payment of the faid fine to the Justice, or upon fureties bound by recognizance for the payment thereof, the Justice may deliver the offenders

offenders again out of prison at his pleasure, Chap. 15 by fome opinions. But quere, for that the Sheriffe is accomptant for all fines. Or the Juffice of Peace (by fome opinions) may record fuch force, and commit the offenders, and after certifie the Record to the Justices of Affize and Gaol-delivery, or elfe to the Generall Seffions of the peace, and there the offenders may be fined. For the Statute doth not say, that the Fine shall be affessed by them that Record the Force; but rather the luftices of Peace may certifie or deliver the Record by them made, and referre the Fine and further proceedings therein, to the upper Bench, which is thought to be the fafest course. 8 Also the Justice of Peace, notwithstanding his own view of the force, may and ought in fome good Town, or place near where the force was, to enquire by a sufficient Jury of the same County, to be returned by the Sheriffe, as well of those which made such forcible Entry, as of those which made such torcible detainer, wherein these things must be observed. I That one Justice of Peace alone out of the Sessions, may make an Inquiry; whereas otherwise to hold a Seffions, there must be two at the least, and one of them must be of the Quorum 2 This Inquiry may be so made within a moneth after the time. 2 It may be made whether the offenders be present or gone, at the coming of the Justice of Peace. 4 This Inquiry may bee made, albeit the Juftice of Peace go out to fee the place where the force is, and upon his view. make a Record : But he must take care the Records do not differ, for if the Enquest

Chap. 15 finde contrary to the Justices Record, the last Record is void. 5 One Juffice may make the view, and another Inflice may make the Enquiry. 6 If feverall enquiries be made by feverall Inflices upon the force, every one of them is a good enquiry. 7 If the Record of Inquifition fay, the Jury was fworn, and indeed it was not fworn; yet it is a good enquiry. If the Jury be under12, or any of them have been Attaint of a false oath, or in a Decies tannum, or are Ambodexters, the Jury is not good unleffe there be 12 of the Jury belides

those men. 9 This Inquiry must be made by Warrant to men of good effates. And there'ore the luthe Sheriff: flice of Peace is to fend his Warrant to the Sheriffe, to command him in the behalf of the Keepers of the Liberty, to cause to come before him four and twenty fufficient and indifferent persons, near about the place where the force is supposed to be; and every of them so returned, must have fourty shillings by the yeer at leaft, in Lands, and Tenements. And the Sheriffe is to return Issues upon every man fo fummoned, the first day twenty shillings, the fecond day fourty shillings, and the third day fifty shillings, and at every day after double. And upon default of appearance of the Jurors. the Justice may grant an Alias, and after that, Pluries infinite till they come. And if any Shetiffe, or Bailiffe of Franchife, that hath the return of such Writ, shall be negligent, he shall forfeit twenty pound. But if fuch Jurors have mot forty shillings land per annum, yet their prefentment of fuch Force, is good for the Common-wealth, fo as the Offenders shall fine therefore. therefore. And if the Sheriffe return smaller Chap, 15 lifues upon the Inquirers, then the Statute doth appoint, yet the party Indicted, shall not impeach the inquiry thereof; but these defaults in the Sheriffe, for not returning sufficient men, may be punished by the Justices of Peace, who may hear and determine these offences by Bill or Indiament, wherein shall go the like processe as against men Indicted for trespasse. 5 It is convenient upon fuch Inquiry, that the evidence be given openly to the Jury, to the intent it may appear to the Justice of Peace. or Court, whether there be reasonable cause to flay Restitution, or not, after the Indicament Restitution, found. 9 If upon fuch Inquiry, fuch forcible Entry, or fuch forcible Holding, or Detainer, shall bee found by the oathes of the Inquirers. then the faid Justice of Peace shall reseife the Lands or Tenements fo entred upon, or bolden, and thereof put the party in possession again, which in fuch fort was put, or holden out. As touching which point, these things are to bee known. I Any one or more Justices of Peace, before whom the force is found, and not any other Juffice of Peace in, or out of Seffions, luftices of Over or Terminer, or Gaoldelivery, may in person put the party put, or kept out, in poffession again; or may award his or their precept, under his or their own Teke, to the Sheriffe to do it, And if the Juffice before whom it is taken be dead; or otherwise, the Record being before the Juffices at their Sessions, they may award execution by Writ. but not without a Writ, as the Justice of peace himselfe that took the Inquisition may do. Alfo the Justices of the upper Bench, upon a Certificate

Chap. 15 Certificate by the Justices of peace of the Force found before them, or upon removall of the Indicament by Certiorari, may by Warrant to the Sheriffe, not in person, award Restitution. And to do this, the luftice or Sheriffe may break open any house, and take posse Comitatus; and if the Sheriffe return, he cannot do it for refistance, he will be amerced. 2 The restitution must be made to him that is put out, not to his Heirs, Executor, or any other after his death, but the parties in this case may be fined and imprisoned. Cook. 2. part. of his Inftit. fol. 242, 243, 3 No restitution shall be made. but where the forcible Entry or detainer is first found by Inquisition, and that upon sufficient Indichment. Indicament also. For if the Indicament or Inquisition be quashed for insufficiency, no restitution can be had upon it. For this cause the Indictment must expresse, I A putting out Expulerunt, 2 The quality of the thing entred into, as Meffuage, Cottage, drc. Therefore they entred the Tenement, is void for in-

party to be restored. And if upon an insufficient Indictment, the Justices grant restitution, before it be done, the same Justices, not others. Snpersedeas, may grant a Supersedeas to flay it. 4. Restitution is onely where a man is put or held out

they keep out. 4 It must be with strong hand, or with multitude, except it be implied by reciting the 8 of H. 6. and conclude against the form of the Statute aforefaid, or by some other fuch words. And if one be restored on an insufficient indictment, and it be removed into the upper Bench, the Court will canse the

3 A keeping out, it must say, Yet

of land, or the like, not out of rent, or the Cha.15 5 The Justice may make restitution notwithstanding any offer of Traverse. Yet in this case the safest way is to send the Indictment into the upper Bench.

But as touching Restitution, Inquisition. and the three years possession, and for the clearing of the Law touching them, these things are to be known. And first, to whom Restitu- Restitution

tion fhall be made, and upon what Inquifition, to whom it shall be If it be found that I S was feifed, untill hee made was diffeised by ID by force, or untill ID entred upon him by force, in this case Restitution shall be made to I S. So if it be found that I S was seised until diffeised by ID, peaceably which ID, holdeth with force; in this case Restitution shall be made to IS. And if it be found that the father die, and a stranger enter by Abatement, and detaineth with force; in this case Restitution may not be made to the fons: If it be found that the father made a leafe for years, and die, the years expired, and before such an entrie made by the son such a force is committed in this case the son shal not have Restitution. If it be found that a man is feifed of Land, and hath iffue a daughter and dieth, his wife with Child of a son, the daughter is onfted with force, and then a fon is born ; in this case the daughter, and not the son shall have the Restitution. If it be found that IS was feifed until he was diffeifed by I D and that IS oufted ID with force; in this case the Restitution shall be made to ID and not to I S. If it be found that I S was seised untill I D ousted him with force, and also that ID was so seised untill

Chap. 15 untill by IN diffeifed by forces by this Inquifi\_ tion ID the first diffeifor will have Restitution against I N, and thereupon I S shall have Restitution against I D and all upon the same ver. diet. If it be found by severall inquiries that a man is oufted by force by feverall persons at fundry times of one, and the same thing, each Inquest is good, and he may have Restitution upon any of them, but he shall have but one Restitution. If it be found by severall inquiries (i ) by one enquest that IS is ousted by force. and by another enquest that ID, is ousted by force, and both of the same land; in this case each of them may have restitution. If it be found that I S was feifed for the life of A. and he is ousted with force by B, and that A is now dead; in this case 15 shall have restitution upon this Inquisition. If it be found that two jointenants be oufted by force, in this case one of them may have Restitution without the other. So if it be found that the Father was feifed untill he was oufted with force, and he die before entry or restitution, the sonne shall not be restored. So of the Executors of a Leffee for years oufted before his death. If it be found there is leffee for life, the remainder in Fee, and the Leffee for life is oufted by force: in this case he in remainder shall not be reftored. If it be found that I'S was feifed. untill by ID he was oufted by force, and the Inquiry doth not fay, at the request of IS, yet he shall have Restitution. If it be found that one is oufted by force, and thereupon he is restored, and after he is ousted by force again by the some party; in this case he shall not have Reftitu-

Reflitution the second time, upon the same In- Chap. 15 quifition. If the Leffee for life upon Condition, be oufted by force, and the Leffor enter for the Condition broken, and this be found; in this case the Lessee shall be restored. If husband and wife before Iffue had, are oufted with force, and then they have Issue between them, and the wife dieth, and this be found, the hufband shall have Restitution. If it be found that the land out of which one hath Rent or Common is detained with force, fo that he cannot have his Rent or Common; in this case he cannot have Restitution. And finally, it is so for the most part, That he that is the party grieved, that must complain, he is the party to whom Restitution shall be made.

And as touching the three years possession these things are to be known: That if a Diffeifor continue the poffession quietly for one year, and then maketh a Feoffment, and raketh back an estate again, and then he continueth the possession for two years more, this is not a good possession for three years within the frante. So if Lessee for years continue in posfession for two years, and then his terme expireth, and after this he holdeth for another year, this is not a good continuance in poffeffion for three years. But if a man make a Leafe at will and dieth, after whose death the Lessee dorh continue in possession three years, this is a good continuance of poffession within the statute, If a Diffeifor do continue in possession two years, and then is diffeifed by his eldeft fonne, the father dieth, and the fonne continueth in possession for one year more; this is not

Chap. 15 not a continuance of possession for three years within the proviso of the statute. The same Law is if the father differfeth his eldeft fonne, and continueth in possession two years, and the fonne after his death for one year more; this is not a contingance of possession by three years within the statute. But if the diffeisor continue the possession for two years in his own life time, and dieth feised, and his sonne and heir entreth, and continueth the possession for one year; this is a continuance of possession within the Proviso The same Law is, if the Diffeifor continue possession for two years in the life time of the Diffeisee, and one year after his death; this is a continuance of possession for three years within the statute. If the Disseisee make a continuall claime within three years, but make no entry; this is not a continuance in possession for three years within the statute. The same Law is, If the Diffeisor continue possession by two years, and his Feossee by one year; this is a continuance of possession for three years. If one recovereth against another in a pracipe quod reddat, by covin, and he against whom he recovereth hath the quiet posfellion thereof for three years; this is a poffeffion within the statute. If one make a Leafe to another for the life of IS, and the Lessee doth continue the possession for two years, and then IS die, and the Leffee doth continue the possession one year after his death; this is no continuance of possession within the statute. But if he continue the possession for three years after the death of I S; this is a good continuance of poffession. If the Diffeisor make

make a Leafe for life the remainder over in Fee, Chap, is and the Lessee holdeth in for a year and dieth, after whose death he in remainder entreth and continueth the possession for two yeers more; this is not a continuance of poffession within the proviso of the Statute.

In these cases a man may alledge to flay re- Sect &. flicution any of these things. I. His quiet pos- Causes to fession for three years : For there shall be no stay Rettingrestitution awarded in case where the party in-tions dicted hath been in quiet possession by the space of three whole years together, next before the day of the Indictment found, if his estate be not ended. And this the party may alledge, and upon this, restitution shall be stayed by the Juftice of Peace untill it be tried, if the other party will deny or traverse the same. He may deliver to the Justices of Peace, or Court, a Certiorari, and this is a Supersedeas to Certioraria them. And therefore if a man have committed Superfedeas. fuch a force, and be in doubt that he shall be indicted thereof before the Justices of Peace upon the Statute 8. H. 6 and that thereupon reflitution will be awarded against him, he may

them; for hereupon the Indictment shall be removed unto the upper Bench. And although the Indictment be found after the Teste of the Certieraria it is not materiall. But if a Certierari come to remove an indicament taken before a Justice of Peace in the Country, and the party will not fue to remove it, but doth fuffer it

have a Certiorari out of the upper Bench rea. dy; and when the Bill of indictment is found.

he may prefently deliver it to the Justice of Peace, or Court, and this is a Superfedent to Superfedents Cha.is

to lie still, some think the Justice may proceed to grant Restitution. But it seems the Justices ex officio are to send the indistment away, because they are commanded so by the Writ, and this

Sur erfedeas. Writ is a Superfedeas of it felf.

And after restitution made by the Justice of Peace, if the other party do remove the indictment by a Certiofari of a more eigne date then is the indictment, the Justices of the upper Bench may award reflication back again: for upon the matter the Justice of Peace had no power to make Restitution, for that the Certiorari had relation from the date : After Restitution granted from the Seffions, and delivered to the Sheriffe, the other Party having a Certiorari, delivereth it also to the Sheriffe, after the Seffions the Sheriffe shall not surcease thereupon, for he hath no authority to allow thereof. But if the Certificari were delivered to any Juffice of Peace, he may thereupon grant a Supersedeas to the Sheriffe. And if Bestitution were made by the Sheriffe before the faid Supersedeas came to his hand, then the other t'arty shall have Restitution back again in the upper Bench upon the indictment removed thither. 3. He may tender a Traverse : but some doubt whether he may be admitted to a Traverse before the same Justice of Peace. But this tender of Traverse (to an indictment of a Forcible Entrie ) upon the Statute of 8 H.6. is no Superfedeas but in difcretion; fo as the Justice of Peace or Court may grant or flay the Restitution at their discretion, according as the truth of the right or title shall appear to them. And so is the use of the upper Bench. Or else the Justi-

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ces of Peace before whom the Indiament was Chap. 15 found, may after traverse tendred, certifie or Superiedeas, deliver the indiament into the upper Bench, and so refer the surther proceeding thereof to

the Juffices of that Court.

But if the Party indicted shall tender a Traverse presently, whereupon resitution is stayed, and after he shall not pursue his Traverse with effect (but dif-continueth it ) and after doth tender another Traverse; upon restitution prayed at another time, the Juffice of Peace or Court shall do well to proceed to grant reflitution notwithflanding such Traverse tendred. And it is the course int he upper Bench, that he that tendreth the Traverse there ( upon fuch an Indictment ) fhall bear all the charges of the Triall, and not the Keepers of the Liberties; nor he at whose suit the Indictment was found. And the same Reason seemeth upon an Indictment traversed before the Juffices of Peace. 4. He may flew the infufficiency of the Indiament for the causes before alledged. 5. And some have thought he may plead the infufficiency of any of the Jurors; for not having forty-shillings per annum And some think that the Juffices of Peace ought not to flay reflitution, fave only in case where three years quiet possession is alledged, or by removing the record.

The Majors and Officers of cities having Franchife, have like authority therein as Justices of Peace have within their County, 8 H. 9. c. 9.

And if the Justices of Peace be negligent in their offices upon these Statutes, they may be punished.

## CHAP. XVI.

Of an unlawfull Assembly, Rout and a Riot.

F or the better understanding of the Law in this (which hath some affinity with a

Forcible Entry and Detainer) these things are to be known. 1. That an unlawfull affembly is

Unlawfoll

Sect. I.

Affembly.

Rout.

Riot.

where three or more do meet to do an unlawfull act against the Peace, as to beat down a pale, ditch, house, or the like; or to do a lawfull thing in an unlawfull way or manner, as to diffrain for his Rent with force and violence: but they do nothing. A Rout is when they go forward (after they are thus met) in a turbulent way to effect, but do not finish it. A Riot is when they do not only begin, and go on, but finish their work. So that in these offences there must be these things concurrent. I. There must be three or more persons in the work, and this may be made up of women and children of any discretion. But this offence may be committed, though some of the company stand by and do nothing; for if they frand by and countenance it, it is as bad as if they did it. But if they come by chance and intend nothing; con-2. Their Affembly that they go with, or

their intent must be evil, to do some hurt to men, or that which is theirs ( which in some sases will be presumed:) As if the Lord with two

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or more persons enter on h s Copy-holder with Chap. 16 force, and cut and take his corn, because he do h not pay him his fine; this is a Riot, and yet this entry lawfull. So, if a man make refistance against the Sherisse, or any other in their doing of justice: So, if two or three make a forcible entry. And this may bee punished both wayes.

Meetings and Affemblies of any persons upon Matches made for Cock fighting are unlawfull Affemblies, and (inseems) may now bee punished as a Riot. Ord March 31. 1654. And so (as it seems) are meetings to set-up May-Poles, especially when it is done with Guns and

Drums. Ord. April :6. 1644.

If many come together unarmed, they know not why themselves; this is no offence punishable, unlesse it can be known they came to some evil intent, or they do mis-carry themselves in some evil act.

If one ride or go abroad with his fervants armed and in harneffe, and do no more, this is an unlawfull affembly, if not a Riot. But if he intending a Riot by an entry into land, or the like; go with his ordinary fervants, who know nothing, and they do enter, this is not a Riot in the fervants, if it be any in the Mafter. To go in a privy coat of mail is not this offence.

And albeit one be threatned, and in danger of his life, and to defend himself he gathers a force, and they ride about armed; this is a Riot. Yet if they did abide in his house, happily it

may be justified.

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But if a man do onely go abroad with his houshold fervants which he hath commonly

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Chap. 16 in his family, though they be more then his ability to keep, this is no offence; and if they hap to make an affray, or do any unlawfull thing, this will not amount to this offence, except it can appear they had an intent before to

do it but an affray onely.

night, Affemblies for merry meetings onely, wherein there is no breach of the peace, nor terrour to the people, are not taken to be this Offence. But take heed they be not such meetings as are forbidden: as May-pole meetings, Cock-fighting matches; Or at prohibited times as upon the Lords day, &c. for this may make it questionable. And if there happen to be an affray at such meetings, it is not interpreted to be this Offence. But the coming to such a meeting with such an intent, or the taking of sides and parts at such a time, and in such a case, especially if after their parting they meet again, may amount to this Offence.

If a Jury come to try an Iffue, and they happen to fall our and fight, this is not this offence.

but an affray.

Sea. 3.

The Sheriff and other Officers of Justice, in going about with Troops and arms do not com-

mit this offence.

3 The manner of their motion and action (if the matter be good) must be bad, as when it is turbulent, so that by their coming together they breed some apparant Disturbance, either by word, gesture, or action; so that peaceable men are seared, or light men imboldened: for as a man may do an unlawfull thing, so as it may not be a Riot; so he may do a lawfull thing

·fo

fo as to make in a Riot. And therefore if a con- Cha. 16 venient number only with convenient Took, onely meet together to abate a common Nufance, as where a man hath ereded a Wear one common River where the people pass with their Boats, and they come to the place and make a Trench in his ground that did it, the better to do it, this is no offence.

But if in doing this they come weaponed, or in the night, or use threatning speeches, that they will do it if they die for it, or the like, this may make it a Riot. So if I claim a piece of Timber, and another hath better right to it then I have, and I take a convenient number of Persons, and peaceably remove it, this is no Riot.

Dalt. 7. P.c. 46.85.

I. The loftices of Peace may proceed upon the Statute of Northampton of which fee Dalt. 7. How such P.in Cap. 46. 2. The Party grieved may have a Ottenders Commission out of the Chancery to enquire of shall be pur it, and of the neglect of the Justices of Peace the power in punishing it. 3. Or he may have a and duty of Writ out of the Chancery to command the Ju- the Juftices frices of Peace to execute the Statute 13. H.4. of Peace 4. The ordinary remedy is by addresse routhe of Sessions. Justices of Peace. Every one of which must do his best to prevent, and stay them in doing, for this he may and ought to do upon notice of ir. 1. To go to the place, if he can conveniently, and he may take with him ( especially if aid be View. great) the Poffe Committees and Suppress it. 2 If Committee he finde any of the Rioters, take and imprison ment them, and bind them to the good Behaviour. Good behav 3. If he cannot go, or flay when he is there viour. himself, (they being gone for the present ) he

Sea 4.

Chap. 16 may command his Servants to go, or stay and suppress it, and to bring the Rioters before him to find fureties for the good behaviour. 4 The Riot being done, the Justice of Peace, can neither record it, make enquiry, fet Fine, award Processe, or meddle with it but as a Trespasse, or upon the Statute of Northampton, if it be a Forcible Entry. And yet if the Justice of peace fire ting judicially, see a Riot done before his face, he may record this, and command the party to be arrefted. But if it be in another place, the party may traverse it. 5. Every suffice of peace is to fee the Statute of 13. H 4. executed; for though the two next Justices only are in danger of the Fine of one hundred pounds, yet all the reft may be punished. And, in the execution of the flature, he is to do in this wife; 1. Get the assistance of the Sheriff, or any other Justice of peace, if he can, 2. Go the place, if he can-3. If he find any Rioters or unlawfull Affembly, commit them to prison. 4. Compell them to give fureties of the peace or good Behaviour. the P ace or 5. Upon refufall commit them. 6. Take away their Weapons. And further he cannot go till inquiry, which must be made by two Justices of peace. And any two justices of Peace may do this, and they must proceed upon the Statute of 13. H.4.as before.

Commits ment. Surety of Go d behas viour. Inquiry.

> Only, 1. They are to fend for the Sheriffe, or his under-Sheriffe; for it cannot be done without one of them, if the Riot doth continue; for in this case he is one of the Judges. And if they come not, he that doth come is excused. But the inquiry after, when it is past, may be by two luftices of Peace, without the Sheriffe,

fave

fave only as Minister. And if any Justices of Cha. 16 Peace do it, the two next are excused of the 100. pound. 2. They must likewise, as when one luftice doth it go to the place. 3. Take, if need be, the Posse Comitatus, all above fifteen Posse Comiyears old. 4. Arrest the offendors, remove tatus. the Force, commit the Rioters, and take away Arreit, their Weapons; and so they may do to all that are with them, and all that they meet coming from them riotoufly arrayed; and if they refift, beat wound or kill them; but may not record a riot done by them. 5. If the Rioters be escaped, they cannot arrest them, or award processe to arrest them at another time or place: but the record must be sent into the upper Bench, there to be proceeded upon; but no Traverse lieth to this, yet they may send their Traverse. Warrant to bind them to their good behaviour. Good behaviour. 6. After arrest, the Justices and Sheriffe must viour. formally, in the nature of an inquisition, record Record, the Riot in writing as the case is: For if they commit and not record, they lose 100 pound. And they must take care they do the party no wrong, for he cannot traverse it, but is remedileffe. 7. If another Riot be made upon or before them, they are to record that also. 8 They Cormits are then to fend them to Gaol, which the ment, Sheriffe is to do with the Poffe Comitatus: and if they record and not fend to Gaol, they lofe 100. pound. 9. The same Justices, and none other, are to fine them: which fine must be of good value, that the charges may be born by it. And this fine they may either Estreat into the Estreat. Exchequer, or keep the offender in prison till he pay it to the Justices or Sheriff. 1. H.5.8.

About a flollen Horse.

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Chap. 17

And in this Record they may certifie, if they will, to the upper Bench or Quarter Sellions, or keep by themselves. And in all this the Sheriff must joyn with them. 10 But if the Riot be past, the two Justices must, within a moneth, at a private Sellion enquire by a Jury of the Riot.

Enquiry.

Fine.

past, the two Justices must, within a moneth, at a private Session enquire by a Jusy of the Riot, and being sound, record it here, and end the matter, set the sine, make out processe, commit till payment, or upon payment, or surety to pay, deliver the prisoner, receive and try the Traverse, and dismisse the party if they see cause. But after Traverse, the usual course in this case is set transmit the Record into the upper Bench

Traverie,

or Seffions, there to be tried. And if there be any undue practice, that the Jury will not find it, it is to be certified by the Sheriff and the two Juftices into the upper Bench.

Ce. tificate

## CHAP. XVII.

## About a stollen Horse.

Sell. 1.
The power and duty of the Justices of Peace herein out of Selsions.

Very Justice of Peace (aftersale of a stollen Horse, and in an open Fair and Market) within fix moneths after the Felony done, may take and hear the claim and proof of the right owner, his Executor or Administrator, or other appointed by him, by two sufficient witnesses upon oath, which he may give within fourty dayes after the claim. And he may examine the Buyer, or him that hath the possession, or interest thereof, what money he paid for the same,

fame, bona fide, so as the right owner paying Chap. 17 the same money, may have his Horse again. 31.

El.12.2, 63, Ph. & M. 3.

For the better understanding whereof, these things are to be known. I Generall Sale of any thing vendible in Fairs and Markets overt, are good not onely between the parties, and bind them, but all others that have right thereunto, be they Infants, Feme Coverts, Ideots, non compos mentis, fuch as are in prison, or beyond fea, fuch as have in their own or anothers right, as Executor, &c. but the Keepers of the Liberties are not bound. Cook 2 part. Inft. 713. But in the Sales these things are requifire. I It must be made in a place overt and open, as the fields, or ftreets ; therefore fale of a Horse or beast in a stable, back-side, or barne is not good. 2 It must be in an apt place, that is, the place appointed and used for sale of such things, as Place in the Gold-smiths shop, Horses in the Horse Fair; therefore sale of plate openly in a Scriveners shop, or Horses in the Sheep-Market, is not good. 3 It must be a sale, not a Gift, without valuable confideration. 4 The Buyer must be ignorant, for if he knoweth the Seller hath at the most but a wrongfull possesfron, this will not binde the right owner. There must be no Covin in the case. And therefore if there be a sale of purpose between two, to bar him that hath right; this will not bind him. & The fale must continue, for if the wrong doer get the goods again, him that right hath, may take them from him. 7 There must be a fale and contract; and therefore if it bee made

Chap. 17 made by one not able to contract, as an Infant, Feme Covert, frc. or to a man of his own goods; in these and like cases it is not good. contract must be wholly and originally made there, and not begun out of the Market and finished there. 9 The sale of any thing but Horfes (as afterwards ) is good to alter the propertysthough no Toll to be paid. 10 It must be between Sun and Sun, and during the time of the Fair or Market. 11 If the Owner of the goods pursue the Felon of the goods, and cause him to be attainted, the fale of them here by the States Officer that hath feized them, is not good to conclude the Owner. And yet a Sale at any time, or in any manner is good to conclude the Parties, albeit it be not good to bind a franger that hath right. To alter the property of a stollen Horse, Mare, Gelding, or Colt, in a Fair or Market, these things must concur. be openly riden, led, walked, or driven, or kept standing an hour together at least, between ten a clock and Sun-fet, in the open place of the Fair or Market wherein Horses are commonly used to be sold, and not in any house, yard, or back-fide, or other privy place. 2 All the parties of the Contract present in the Fair, must come together, and bring the Horse to the open place appointed for the Toll taker, or Book-keeper where the Toll is due. 3 There must be written and entred in the Book the Names and Additions of place, & mystery of all the parties to the Sale, and the Seller, and (at the least ) one speciall mark of the Horse sold. 4 The Toll must be paid where it is due; if not, the buyer must give

give a penny for his Entry to the Book-keeper, Chap. 17 and all this must be done between ten a clock and Sun-set 5 The Toll-taker, (or where more is paid) the Book-keeper, Bailiss, or chiese Officer of the Fair must either take upon him the perfect knowledge of the seller, his names, and places of dwellings, or else he must bring to him some credible Person that can so do, and that all this, and the very price of the Horse be expressly entered in the Book. 6 He must give to the buyer, requiring it, and giving two pence for it, a note in writing out of the Book of all this; otherwise the Sale, as to him that hath right, is void.

But the Book-keepers not delivering the Book two dayes after the Fair, 675 taking Toll where none is due, or the like, will not make the fale void. And if the fale be in all points according to these Statutes, yet if the Owner come within fix moneths after the Felony, to a Justice of Peace neer the place where the Horse is, and claim him, and within fourty dayes prove him to be his by two witnesses, and that it was stollen from him, and pay or offer the money that the party which hath him gave for him, to be by the same parties oath attested before the Justice of Peace, he shall have his Horse again.

## CHAP. XVIII.

El at 1 Jon William

Of the Peace and Good Rehaviour, and Sureties thereof.

Sect. 1.
Surety of the Peace and Good Behaviour, What it is.

The Suretie of the Peace is an acknowledgement of a Bond to the Keepers of the Liberties of England, taken by a competent Judge of Record, for the keeping of the Peace. That of the good Behaviour is for the keeping of the good Behaviour, and hath affinity with the former.

Sel. 2. The power and duty of the Inflices of Peace herein out of Seistons. and in what cafes, and for what causes it may be granted. Peace upon discretions and how. Rioter, Barreter, Affray, or Him that doth threas ten. Armour.

The Juffice of peace may of his own authority, motion, and discretion, or by authority from another, require any man to give furety of the peace in these cases following viz.1. Where he doth know him to be a common Rioter or common Barreter. 2. Where he doth make an affault on the Juffice of peace himfe f. 3. Or upon another in his presence. 4 Where he doth fee him making an affray, or about to do it, or hath newly done fo. But nor after he hath done it. 5. Where in his prefence he heareth one to threaten to kill or beat another, or burn his house, 6. Where he seeth men contend in hot words before him, or he suspects they are inclined to quarrell. 7. Where men go or ride armed offenfively, or with an unufuall number of Servants and Followers. 8. Where Servants and Labourers go with weapons contrary to the Statute- 12, R.2. 9. Where he that is bound already

ready hath broken his Bond, and he may bind Cha. 18 him de novo. 1. Ed. 4.40. But some say the forfeiture must be levied first. 10. Where the Sureties of one that is already bound are infufficient. 11. When a Constable shall bring one before him, that doth threaten in his presence to kill, maim, or hurt another; or hath attempted the breach of the peace before him, by drawing weapon, affaulting, or ftriking; or one whom the Constable found quarrelling in a house, or making, or that hath newly made an affray, especially if he hath wounded another in the affray

When the Peace is granted upon Request, Sell. 3. there must proceed an Oath of the Partie de. Vpon Res firing it; That he standethin fear of his life, quest. or some bodily hurt or the firing of his house by him (against whom he defireth it) or by his procurement: and that he defireth the Peace. not of malice, but of very fear, which may arise from his threatning to do it, or otherwife. And without this Oath it is not to be granted : but

upon this it is grantable in these cases

If one do threaten to kill, main, beat, imprifon or hert another in his body, or to fire his house or goods. And so it seems if he threaten to kill or hurt his wife, children, or fervants.

But it is not grantable to me, because another goeth with weapons, who did never declare any

malice or evil purpose against me.

Nor where I shall swear I am in fear of him that he will do my fervants or cattel fome hurt, because we are at variance. Nor where no fear is of present or future danger; but it is of meer vexation: Yet if the parry will take his oath he

allo !

is in dread of his life, the Justice of peace can-Cha.18

not well deny it.

If the husband do use outragiously to bear his wife, or mafter his fervant, and they make oath hereof, and defire the peace, the Justice of

peace may not deny it.

Sell. 4. VIOUR Ly common Law.

I The Justice of peace may of his own motion Good behas and discretion, &c. or at anothers request, and ex officie, or upen a Supplicavit as a Minister, as upon Articles exhibited and proved before a Master of the Chancery, he may send this writ to the Juffice of Peace, to bind the party to the good behaviour, and they may require it of these persons following.

Ev. Name

2 One that is of evil Name and Fame, in generall, dangerous and suspicious, or keepeth company with fuch, especially if he be defamed or detected in any one of these particulars. 24.Ed. 3.1.

Rubber.

3. A common robbet beyond the feas, that liveth idly here, one that doth lie in wait to rob, or is generally suspected to be a high way Robber, or doth attempt to rob men, and put them in fear, or is suspected to be a common pilferer. 34. Ed. 3. chap. 1. Dalt. 7. P. 22.1.

Cheater.

4 A common Cheater or Confener, as one that by falle letters or tokens gets money, or other things from others. Dalt. 7. P.88.

Rioter. Barreter. 5 A common Rioter.

6 A common Barreter, Quareller, or breaker of the Peace.

Libeller.

7 A Libeller (i.) one that procureth, contriveth, or doth publish any Libel against another, especially if it be against a Magistrate. So also if

a man

in

a man be a common flanderer, or common tale- Cha. 18 bearer, and his flanders and tale bearing be of dangerous consequence and do much mischief; these, I think, are fit to be bound to the good behaviour.

8 One that doth practile to poylon men, or poyloner, doth poylon Cattell, Poultry, or other Crea-

tures.

9 One that is a dangerous person and is like Peace bread to commit homicide, or other grievances to the ker.

bodies of the people 34. Ed. 3.1.

try, or Derainer. Also all persons unlawfully try, and riorously assembled; or unlawfully wearing armour by night or day, or otherwise affrighting the people. Dalt. J. P. 73. Dalt. J. P. 109.

11 One that is a common Drunkard.

Drunkarda

12 One that is the putative Father (that is) Baftard, hath begotten, or is suspected to have begotten a bastard child.

23 One that doth threaten to beat, or doth beat a wirneffe for giving of evidence against

him.

14 One that doth cast down chamber-pots upon men, or meates purposely to spoil or to do mischief, by Baron Thorpe at Glocester Assizes 1654.

One that is a common Whoremonger, of a Incontinent, common Whore; One that bath committed

adultery or fornication.

15 One that doth keep or haunt, or is yehemently suspected to keep or haunt a common Bawdy-house. One that keepeth a lewd woman in his house. Cromp. J. P. 10.

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Cha. 18

16 One for conspiring to take away anothers Conspir tor. life, indicting him, and giving falle evidence ag-inft him : So 19 Jac.in Chancery. it was granted by Sir Matthew Cary, a mafter of the Chancery.

Witne e.

17 One that being a materiall witnesse, and required by the Justice of Peace, doth refuse to be bound to give evidence at the Gaol-delivery against an offender. Dalt. 7. P.66.

Ak. ellers

18 One that felleth Ale contrary to the Ju-

stice of Peace order. Dalt. 7. P. 37.

Contempt of authoris Ly.

19 One that sheweth himself contemptuous in word or deed, to the person or authority of a luftice of peace, especially if he be in execution of his office, as to call him knave, or bid him kis behind, or the like, or being called before him, doth refuse to answer him, or to tell his name, Cook 11.105. or being required by the Justice to affift him in the doing of his Office, doth refuse it.

20 One that complains of a Riot, and having drawn the Juffice of peace to the place, will not follow it, but deludes him. Or charge a man with Felony before him, and will not give evidence. If one be appointed by the Juffice to take an Apprentice, and upon his refusall is bound to the Seffions, and there he refuseth. Refol. by the Judges temp. Car. Reg. 7. he that shall accuse another before a Justice of Peace with any foul crime, being put to make

it good, doth wave it.

Perjury.

19 One that suborneth witneffe to perjurie. 15:Car.B.R. or is perjured. March 11.1/20.

Idle livery.

20. One that being an idle person, and having nothing whereon to live, yet fareth and weareth weareth well, and spendeth much in Ale hou-Cha. 18 ses and Faverns, if upon examination he cannot give the better account of his life. And upon this branch we conceive clearly any wandring idle person may be put by a Justice of Peace to give sureties, and for want of them be sent to Gaol.

21. One that is a common Messenger for Messenger theeves.

22. One that is a common Evef dropper; Of Evef Iropper one that is a common Night-walker, that cast Night will mens gates and carts into ponds, and do other. ther like feats in the Night. 13. H. 7.12. Winch c.4.

23. One that maketh a falle Hue and Cry, or Hue and doth raife a Hue and Cry without cause.

24. One that refuseth to watch, being duly Watch and required by the officer. Dalt. 7 P. 173.58. ward

25. One that abuleth an officer of the Peace, Abufing of (be he greater of leffe ) in the execution of his an Officer.

Office.

26. One that commonly breaketh hedges, Hedges robs Orchards, or the like. Datt. 7. P. 173. breakers.

27. One that abuseth a Supersedeas to a wrong end, as where A is bound to keep the peace against B. and getteth a Supersedeas, and then B. releaseth him. And after he is arrested for the surety of the peace at anothers suit, and then he sheweth this Supersedeas.

One that is acquitted of a Felony, if he be a Felon.

person of evil name and fame.

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28 All affrayers by Dali. J. P. 109. who faith, Affrayer. That if any affray, be made in view of a Justice of Peace; after the doing, he may record it, and dend his warrant to take the offender, and bind

bind him to his good behaviour, or fend him to Chap. 18 Gaol. Dalt. J. P. 109. But this we cannot allow to be good Law.

Difturbers of a Minuter

29 Bailiffs that arreft a Minister on the Sabbath day in the Church, especially if he be in the doing of divine Service, or in his going to or

from Church.

30 One that doth not put him or her felf to work, according to the order of two Juffices of Peace, being poor, and having no visible estate, or way but his labour to live by. Refol. Judges 1633. Sed. 17

By Statute Law. Drunkard.

31 One that hath been drunk the fecond time. 4. 7ac.5. 21. 7ac.7.

32 The woman that hath had a baftard the

second time. 7. 7ac. 4.

Plague.

33 One that having the plague in his house, or upon him, and being commanded to keep in, refuleth to obey, is to be bound for one yeer. I. 7ac. 31.

Disturbers of ministers. 34 One that doth wilfully difturb a Preacher

in his Sermon. I. Mar. Par. 1.ch.3.

35 He that is proved to be a fornicator, to know carnally maid or widow, by confession, which I take to be a confession upon an Indi-Ament, and not otherwise, or verdict, he and the both are to be bound a yeer; to he that keeps a Bawdy-house, or is a common Bawd, is to be bound for life, by Ad. 10. May. 1650.

36 He that is proved by verdict or confession to swear the tenth oath, is to be bound for

three years. Ad. 22. June 1650.

De frovers of Fishponds.

37 He that destroyeth a fish-pond, or that Realeth fish out of ponds, or Deer out of Parks, or killeth or hurteth conies or Warrens, or

that

that taketh Hawks, or Hawks eggs out of ano- Chap. 18 thers ground, is to be bound for feven years 5.

Eliz. 21. 3. Jac. 12,13.

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38 One that disturbs the execution of the Church. Statutes against rogues, and for the serting of the poor on work. As such as pur out such poor out of their parish, that ought not to be put out, 39. Eliz 4. or help to convey away the purative sather or mother of a bast and childe likely to be chargeable to the parish.

39 One that reporteth falle news against News.

Weffm. 1 34. 2.R. 2.5 Toung. 22.

his pardon, is to be bound before the Sheriff,

and Coroner, 12 Ed 2.10 Dale 7. P.236.

Justices of the Peace may bind a man to the good behaviour, for attempting to rob a man; break a house, attempting by force or fraud to abuse and dellowr a woman: One that doth haunt lewd houses, or lewd and suspitious company, theevilh or whorish; And for common fwearing: But he is not to be bound for common (wearing for three years, unleffe he bee convided for ten oaths, according to the Act of 22. June 1650. Also he may bind men to be of good behaviour, for fitting all a night, dripking, cutting their ears to bleed them in the drink to drink it, casting beer in one anothers codpeece, eating a hat, and fuch like frolicks: And fo in many other cases. And this being an and power left, much to the discretion of the Juffice of Peace, and being a ready and Tharp remedy, Lithink the Justice of Peace shall do well, especially in these times wherein offences to much abound, to make more ufe G 4

Chap. 18 of it, and especially in case of crimes, where either other remedy faileth, as for flandering, as for such words for the speaking whereof no action lieth: for this tendeth to the breach of the peace; or the remedy is either for chargeablenesse, or tediousnesse, worse then the discase, as for disobeying the Sessions orders, or Juffice of Peace Warrant, as in bringing in the Kings Bench, or Marshalley; or Mariners, or maimed Souldiers money, or the like. For if a man deserve to be bound for a contemptuous word or carriage to a Juffice of Peace, which concerneth none but himself, à fortiori, hee may be bound for a contemptuous deed by neglect or fleight of the Warrant or Order of all the luftices of Seffions, or of any one, or more of them out of Seffions, which may concern many, as the paiment of the County money, or the like: wherein if there be no remedy but by indictment, how this will fuit to the malady, we Justices do know by sad experience enough. For my part therefore, in these and such like cases, as I find no remedy like to this, so I do and shall use none more then this: See Dalt.

Sea. s. Who may do it, and where & be. fore whom it is to be do; e.

I Albeit it be not usual for one Justice of Peace, to require or take furety of the good behaviour. but to do it at a Selfions, or at the least at a fitting of two Justices of peace, or more, and at the fuit of divers men of credit, and upon Articles exhibited also; yet any one Justice alone out of Seffions, and of his own motion, or at the fuit of one man, having matter proved before him to ground it upon, may do it. But it concerns him to be cautious; for if the matter

be falle, the party hath no remedy for this Chap. 18 wrong.

2 The Surety of the peace is usually granted and taken by one Justice of peace; and that

out of Seffions.

3 One Justice of Peace (assome say) may require it of another Justice of peace. But we cannot agree to this, for it is against the Rule, Interpares non est potestas, (i.) amongst equals they have no power one over another.

4 A Justice of Peace may grant it against

his own wife.

5 The disturbers of the execution of the Statute about Rogues, and the poor, must be bound to the good Behaviour by any two Justices of the peace. 39. Eliz. 4. Dalt. J. P. 154. as Dalton affirmeth; but the Statute is indefinite, they shall forseit five pounds, and be bound to the good Behaviour. 39. Eliz. 4. And so it is for him that hath the plague, and refuseth to obey the Officers command. Statut. 1. Jac. 31. And so it is in the Statute of 7. Jac. 4. Shee that shall have a bastard the second time, shall be sent to the House of Correction, till she put in good Sureties for her good behaviour, not to offend so again; and this it seems must be before two Justices of the peace.

6 The difturbers of Preachers, stealers and destroyers of Fish, takers of Hawks and their eggs, hunters and killers of Deer and Conies in Warrens, and the like, are to be bound to the good behaviour in the Sessions, and cannot be

bound elsewhere. Dalt. 7.P.23 5 236.

7 The Popish Recusant, and he that comes not to Church in twelve moneths, is to be bound

Chap, 18 to the good Behaviour in the upper Bench, and not elsewhere. But at this day it feems no man is to be bound any where for not coming to Church, for the Law is changed in this. 23. Eliz. I.

19 He that is attainted of Felony, and hath his pardon, is to be bound to the good Behaviour before the Sheriffe, and Coroners, who are to return it in the Chancery. But the Judges ulually take it at the time of their acquitall, Dalt. 7.

P. 236.

Sea. 6. Who may demand and have it. And against whom it

In all other Cases, as for Drunkennesse the fecond time, and the reft, any one Inflice of Peace may require or take it.

I I I may be had for on against any Spirituall or Lay person without diffinction: but it canmay be had, not be had against any Peer of the Realm but

by a fuir to the Lord Keeper.

2 The Wife may have it against the Husband or another. The Hufband or another against the wife, but the wife must be bound by Sureties, not by her felf.

A Juffice of Peace may have it againft his

wife.

4. It may be had for, or against one that is attainted of Treason or Felony, or in a Premu-

nire, convict of Herefie, or abjured.

5 It may be had for, or against at Justice of Peace, Sheriffe, Coroner, Eicherors, or other Officer. And a Justice of Peace may demand it of his Fellow against another man, or another man may demand it of a Justice of peace against his fellow Justice. But we doubt she Justice cannot compell his fellow Juffice.

6 A drunken man may defire it, or it may

Chap.18

be defired againft him. Dalt. 9. P. 202.

7 A dumb man may defire it. And it may be defired against a man that is dumb and nor deaf. And he must be bound by others. Bor it cannot be had for or against one that is born dumb and deaf, or made blind and deaf accidentally, except he have more understanding then ordinary.

is An Infant may defire it, or it may be defired against him, if he have discretion. Buthe

must be bound by others.

9 A Villain may have against the Lord, or

the Lord against the Villain.

the State, though he be not made Denizen; but not for an Alien in carnity with the State, that is not made Denizen; nor for an Infidel, Pagan,

or Tew.

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it; and a mad man that hath his Lucida intervalla, may defire it, or it may be defired against him. But another man that is mad alwayes, or de non fand memoria. can neither be bound; nor demand Bond in this Case. But the Justices, if they see cause, inay take Surety for his safety of their own difference.

12 It may be had against an Excommunicate

perfon. But not for him.

13 It may be demanded and had against an impotent man, for he may procure another to

break the peace.

14 Or against a Juror at Bessions, but it is best to sorbear to bine him fill the Sessions be

15 It may be had against any person that may have it. For

Chap. 18 Sea. 7. it. and how it must be done.

For the manner and order of granting the peace or good behaviour, these things are to be The manner known, 1 Ac liethin two things, 1. The precept. of grantin; 2. The Execution: wherein is 1. The ferving of the precept. 2 The taking of the recognizance. It may be required by word against one that is present. The Justice may command the Sheriff, his own, or any other indifferent man, or the Constable, to take the party into his custody; and if he refuse to find Sureties, to carry him to prison. But if the party be absent, he must fend his warrant under his hand and Seal, or his hand at the leaft. 2. This warrant must contain the cause and at whose fuit. See in Dalt.

The War. rant.

The ferving of it. Othicer.

In ferving of the Precept, thefe things are to be known. I If it be made to two or more, one of them may execute it. 2. If it be directed to the Sheriff, any one of his known under-officers may execute it without any warrant from the Sheriff but fo may not others, 3. And if it be directed to a Bailiff, or Servant of a Justice of Peace, or other that is no Officer, they must do it themselves, and cannot command others. 4. Whofoever do it, is to do it thus. He is first to acquaint the party with the matter before he arrest him : and defire the party to go with him before a luftice of peace to put in Sureties, and if he yield in reasonable time, he is to do it, and go with him and to fee it done 5 Eliz. 4.31. 5. If he refuse, or delay longer then a reasonable time, he must arrest him, and carry him to Gaol: and fo he may do, if when he comes to the Justice, he do not put in Sureties, and this he may do without a new warrant by the first precept.

cept. 4 H. 7. 9 6 The fworn or known Officer Chap. 18 when he doth execute this Warrant, need not flewit, though the party arrested require it a bur another man must thew it, if it be required, otherwise the party may refiff him 7. If the precept be to bring him before the fame Juffice of peace that made it (as it may be, and must be. if it be by Supplicavit so required ) the Officer Supplicavit. must do so. But if it be to bring him before any Justice of peace of the County, as usually it is, and ought to be, when it is done ex officio & not by Supplicavit, 4 Ed 4.31. (as some say) the Officer, not the Delinquent (hall have the choice to what luftice of the peace to bring him. Cook. 5.59.21 H.7.20. 8. If the Officer do otherwise than his duty herein, he may be fined, or false Imprisonment may be brought against him by the Party. 9. If when the party is brought before the Justice, he do not bind him, he may be punished; the Officer is discharged.21. H.7. 22. Dalt 7. P. 196.

In the taking of the Recognizance, these The taking. things are to be known. I. If he take it as of the Re-Minister upon a Supplicavit, he must do accor\_ cognizance ding to the direction of the Writ. But if he take it as a Judge, he may take what fureties, and bind for what time, and regularly in what fum he pleafeth, but the ordinary fum is ten or twenty pounds. Yet a recusant bound to the good behaviour in the upper Bench, is to be bound in two hundred pounds. 2 For the manner, it must be Sea. 8.

thus made. I. The hond is to bee Cuffedibus Li be made, bertatum Anglia, to the Keepers of the liber- and how it

How it muft thall be a-

ken.

Cha. 18

2. The condition usually is to keep the peace or good behaviour against all men; and especially I. S. till the next Sellions, and then to appear : this is the best Form. But if against all men onely, or against I.S. onely, it be to keep the peace, or. and not to appear, or to fay not when, or before whom to appear, or if it be to appear at another, not the next Seffions, or to keep the Peace and fet down no time, or for a year, or for life; thele are good. Lamb Just P. 103,104.

But if the condition be to do any thing elfe than to keep the peace or good behaviour, the whole bond is void. Dalt. 7. P.211.2 H.7.3.

If no time be fet down, it shall be taken for

his life that is bound.

If no time be fet down when to appear, the Obligor may appear at any time, but it is fafe to appear the next Selfions. If it be not fet down before whom he may appear before any Justice

For the disposall of the Recognizance,

of peace. Dalt. 7 P 211.

Sett. 9. What must. be done wich the Re. cognizance after it is taken, Keleafe.

these things are to be known. 1. The Recogni-Zance, whether taken by Writ, or ex officio, it must be feat to the next Sessions, to the end that the Party may be called ( if the condition be for his Appearance) and his appearance or default, recorded, 2. If any release be made of it, or Supersedear, fo that it be discharged; the Re-Superfedeas, cognizance must be certified with the Release. and the supersedeas annexed. 3. And Albeit the King had, or any of the parties had died before the Seffions, yet these things are to be certified to the Sessions. 4. Though the Recognizance be not certified, yet the party must appear: yet

if a supersedeas come out of the Chancery, and

the

Certificate.

the bond be ordinary; this will discharge his Cha. 18 Appearance. If the party be fick and not able to appear, or if he have any other fufficient excufe,it is best for him to plead it. 5 if a man be bound to appear at the Assizes or Sessions, and the Recognizance be before that time removed by Certiorari into the Chancery or upper Bench; this will discharge his appearance. Dal.

7.1.237.

6. The Justices of peace at Sessions are to call the party conusor, and if he do appear, and the Profecutor appear also, and he be willing to discharge the Conusor (if it be of the Peace) they do usually discharge him; but if he defire, he may be continued, and shew reason, they do continue him. If the profecutor do not appear, they do usually bind him over two or three Sessions. If the condition be general against all men, and not against any person in particular, they do usually make Proclamation, and then discharge them. Lam. I.P. 109. Dalt. I P. 214. If he were bound by the Justice of Peace difcretion, he may at his discretion discharge him, unleffe any law do limit him how long he shall Supersedeas. fland bound. 7. Where the Juftice hath ta\_ Sed. 11. ken bond, either ex officio or otherwise, he is to What shall be said to be give him a supersedeas against all other Justices, a breach of that he be no further troubled. Da. I. P. 216.236. the Peace or

I. To do any fuch as before for which the fure- good beha. ty of the peace or good behaviour may be gran-viour. ted, as maliciously to threaten to kill, beat, of torfeiture or imprison another, especially the party at of the Rea whose suit it is granted is a cause of the breach co BI ances of the peace, and forfeiture of the bond. Poul. or not ton de pace, Lamb. J.P. 114.33. H. 6.18.12. E. 4 For the 35. 2. To

Cha. 18

2. To do fuch an act, or procure fuch an act to be done, which is a breach of the peace : as to do Felony against the person, beat another, imprison, strike, or affault him, by offering some hurtfull act or thing, or some fearfull speech, or thrust him maliciously into the water. Lamb. J. P. 126, 127. Or make a riotous Affembly, fend a challenge to fight 7. H.4.34. Or offer to another any injurious or violent handling by mil-intreatings of the person of another. To make an affray, which may be either by going with unutual Armour or Weapons in terrorem Populi, or by a mutual Quarrell, and going together by the Ears of many together. Lamb. 7. P.127. All these things are breaches of the peace.

But for a Master to correct his Servant or Scholer moderately, Parent his Child, Gooler his prisoner or the like, Dalt. I.P. 220 not for any man that doth any Act in the Execution of Justice, is no cause of Forfeiture of such a bond, nor the desensive beating of another to save himself or his. Lamb. I.P. 127. So the Lord his Villain. 33. H. 8. cap. 12. So a friend may beat his mad Friend for reclaiming of him. Stam fol. 13 14, 15. 14. H. 7.8. Nor to take away another mans goods goods or ward wrongfully, or do Trespasse in his lands or goods, or to diffeise him of his land; for all these things are justifi-

able. Lam. 1. P. 128.129.

Fo the good behas viour.

To do any such Act for which the Surety of the good behaviour may be granted, is cause of Forseiture of this Recognizance. As 1: Whatsoever will cause a forseiture of a recognizance of the peace, will cause a Forseiture of this bond.

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2 So to fay or do any thing that may flir up the Chap. 18 breach of the peace. 3 To go with an extraordinary number of men attending him, or the like. Lamb. 7.P.116. 4 To go or ride armed extraordinarily that it breeds fear in the people. 5 If the binding be for an offence against the Statute, if he shall again offend against that Statute. Dalt. 7.P.236. Lamb. 7 P.121. 6 To be drunken; by Sir Nicholas Hide. Dalt. I P. 236. 7 To swear after one is bound to the good behaviour, for swearing is a breach of this bond. All. 22. June 1650. 8 To challenge, or fend a man a challenge to fight with him, to threaten to beat or wound him, or any fuch like thing which tends immediatly to the Breach of the Peace, is cause of forfeiture of a recognizance of the good Behaviour. But scandalous words, especially if they be not actionable, as to fay, Thou are a Pelter Lier, Drunkard, Knave, or the like; nor ordinary trespasses done to mens lands, goods, or chattels, make not a breach of the good behaviour. Cook. 4 part of his Inft. f. 181.

Touching the discharge of the party profecti- Sell. 12. ted in this case, these things are to be known. What thall

I The proper place of discharging before be said to a or after Bond given, is the Affizes, or Seffions, discharge of fu baelin. Dalt. 216.

2 It may in a due manner be releafed by the quent, or party craving it, before or after the breach of the condition.

3 The death of the King, it feemeth, did difcharge it. But the release, or death of the par-

ty craving it, will not discharge the party when he is in prison. It is doubted by some whee ther the furety of the good behaviour (taken upon

Chap. 18 upon complaint) may be released by any special person, as that of the peace may be. But others think that it may be released by either the party himself, upon whose complaint it was taken, or by the Justice of Peace at discretion. Dalt. 7.P. 236. Lamb. 7.P. 126. See old Book of

After the Lond.

Entries f. 415,416.

4 If he do performe the condition of the Bond, keep the peace, &c. and appear at the time which he must do, though the prosecutor do not follow it. A Justice that bindes of his own discretion onely till a day, may discharge of his own discretion before the day, so it be before the Recognizance be forseited. Poulton de pace 19.

5 If a man be bound for his life, no release of the King, Justice, or Party, can release him,

21.Ed.4.40.

6 If the bond be to keep the peace against A. or against all men, especially against A. before the Recognizance is broken, A. may release it before a Justice of peace, otherwise not. Lamb J. P. 110 And if the party at whose suit was, die before it be broken, where he is bound to keep it against him, this will discharge it. 21. Ed. 4.4

7 Before the forfeiture the King could not release it; and after the forfeiture none but hee

could do it. 11.H.7.12 1.H.7.10.

By the death or refignation of the King, or the party principall himself bound to keep the peace before the bond was broken, it was discharged, but not by the death of the Mainpernors. 1.H.7.2. Dalt. J P. 118, 119.

CHAP.

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### CHAP. XIX.

# Of Ale-bouses.

Or the better understanding of the Lawes Sest 1. concerning Ale houses, &c. these things who must are to bee known: 1 That none may keep takelicentes. any common Ale house, or common Victualling house, or use commonly to sell Ale, Beer, Cider, or Perry, that is not licensed in open Sessions, or by two Justices of the Peace, Quorum unus, 5 & 6 Ed. 6. 25. 2 That Taveris. Tavernes keeping Victualling, Inkeepers, Inholders, and Victuallers, are within the Statutes as well as Ale house-keepers; so that if they offend by fuffering tippling, or felling leffe for a peny, or two pence, then the Statute appoints, they are to be punished as Ale-housekeepers are. And they are to be bound for keeping of good order, as well as Ale-house keepers. And the Juffices of peace may require them to take Licenses, and enter into recognizance to keep good order, or elfe commit them as Ale- Commits house keepers. And all those Innes which were ment. erected fince 5 Ed. 6. and not Innes before, must have Licenses, and be bound as well as others, Crom J P.77. Dal. J.P.ch.7.f.37. 1 Car. Recognis 4.3. The Juffices when they license Ale selling zance. to a man, must take bond and furery of him against the using of un'awfull games, and for the keeping of good order, which they must certifie at the next Quarter Seffions fub pona 3.1. 6. s. 8. d. 4 When they commit any man 3 dayes H2

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Chap. 19 dayes for felling without license, they must ere they deliver him, take bond with two Sureties, that he shall not offend again. And this recognizance, discharge, and offence, they must certifie at the next Quarter Seffions. And this Certificate will be a sufficien conviction in law to make him liable to the twenty shillings fine upon 5 Ed. 6. 25. 5 If two Juftices of the peace discharge an Ale-house keeper of selling of Ale, and two others after out of Seffions, allow him again, it feems the first two may commit him. So if he be convicted of any of the offences in the Statutes, by which he is difabled, and is or is not suppressed for it: if he be licensed within three years after, the License is void, and he to be punished as one unlicensed. And he that is convict for felling leffe then the Affize for fuffering tippling or that doth tipple. or is drunk is disabled to fell again for a years, and being put down by two luffices, he cannot be licensed but in open Sessions, Dal. 7. P.ch. 7. Feme covert. I Jac 9. 4 Jac. 5. 21 Jac. 7. 6 If a woman that

Good Bes haviour.

hath a husband, fell against her husbands will, they may be both punished, his purse, and she, if the luftice think fit, may be imprisoned till the find Sureties for the good behaviour, and that she will not sell again. Datt. J. P. in cb.7. 7 He that is not licensed, may be punished by 5 Ed. 6.25. or by 3 Car. 2. Bur he cannot be punished upon both, that is, if he be committed and pay his twenty shillings, he cannot be fent to Bridewell. If he be fent thither, he is not to be committed to Gaol and pay twenty fhillings; and yet he that is unlicensed may be punished for suffering tippling, or break ing

ing the Affize, as those that are licensed may Chap. 19 be, Dalt 7 P. in Chap. 7. 8 The Traveller, Tippling. and other necessarily accompanying him, and invited by him during his necessary abode in the Ale-house; Handicraft men, Workmen, and Labourers, that are there for an hour at dinner time and fuch as do fojourn and lodge there, and fuch as are licenfed by two Justices of the Peace, are not to be accounted Tipplers within the Statute. But all other men living in the fame place, or elfewhere, except the firanger himself, are to be accounted Tipplers. Dal. I.P. in ch.7. 1. Car.4. Jac. 5. 1. Jac. 9. 9 Brewers may not fell more Ale or Beer to unlicenfed Ale house keepers, then what will serve for their own use, 4. 7ac. 4. 10 Selling of Ale at Fairs, is not against the Statute, 5 Ed. 6. 25. 3 Car. 3. II All the forfeiture of all thefe offences upon 4 Fac. 7. 3 Car. 3. 21 Fac 9. are given to the poor of the place where the offence is done: and so is the one half upon the Statute 4 Fac. 4. and must be delivered to the Church-wardens, who must account for it. But the twenty shillings on the Stat. of 5 & 6 Ed. 6. doth go to the State. 12 It is held fit to hear the parties offending in these cases, before the forfeitures be levied in, Dalt. 7. P. ch. 7. 13 If any Ale-house keeper shall be lawfully convicted of any offence against any breach of 1 Jac. 9. & 4 Jac. 5. he is for the space of three years next after the conviction, to be utterly disabled to keep any such Ale-house, 7. Fac. 10. 14 A man convicted the third time for his felling Ale, or Beer, of his own brewing, and not compounding with the Commissioners H 2

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Chap. 19 missioners of Excise, is to be punished as an unlicensed Ale-house keeper, to be for ever disabled to keep such a common house. Al. 14.

August 1649. 15 If a man be punished on 5 and 6 Ed. 6. that is, committed and hath entred into bond, and hath paid 20. s. he cannot be punished on 3 Car. and so on the contrary

part.

Sea. 2.
The power and duty of a justice of Peace herein out of Seisions. Selling without beenle.

There must be two Justices of Peace, Quorum unus, to license a man to keep a common Alehouse, and to take a Recognizance of him for his keeping of good order, which they may do according to their discretion. And if they please, they may license some Alehouses to sell to the poor out of doors onely Refol. Judges And there must be two lustices to remove, discharge, and put down an Alehouse where they think meet, and to commit to prifon without Bail, such as use to sell Ale withont license, or contrary to the command of two Tuffices of peace, upon 5. Ed. 6.26. And to take a recognizance of him that he shall not sell again. and to certifie this offence and the Recognizance at the next Quarter Sessions, where he is to be fined twenty shillings. And there must be two to license Labourers to remain in an Alehouse, &c. But any one. Justice of peace upon oath of two witnesses, or confession of him that doth of his own head without license, keep a common Alehouse, or Tipling house, or use commonly Ale-felling, may make his Warrant to the Constables or Church-wardens of the place where the offence is done, to levy twenty shillings by diffresse and aprisement, and sale of goods, after three dayes returning the overplus;

Wa rant,

plus; and for want of diffresse, or non-payment Chap. 19 in fix days, to whip, or canse him to be openly Bridewell. whipped, and commit the officer neglecting his duty, to prison, till he doe it, or pay forty shillings. So also any one Justice for the second offence herein, may send the Ale-seller to the house of correction a month; and for the third, may send him thither untill he be from thence delivered by order from the Quarter

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Also any one Justice of peace upon his own view, oath of one witnesse, confession of the par- Suffer tipty, or upon his oath after his confession against ling. him that shall suffer any person forbidden by the Statute, to remain tipling in his house, may convict him; which done, the Constables or Constables. Church wardens of the place where the offence Church is done, may exofficio, without any Warrant wardens. from any Justice of Peace, levy ten shillings by diffress and sale of goods, returning the overplus. And for want of distresse, the Justice of peace Commitmay fend the offender to Gaol till he pay it. So ment. he upon the confession of the party, or oath of one witnesse against the Innkeeper, &c. that he Selling undoth fell leffe then a quart of the best for a pen. der measure, ny, or two quarts of the small for a peny, may convict him for the twenty shillings forfeiture; which done, he must be proceeded against, as in the last. And if in these two last cases the officer do not levy the money, or within twenty dayes certifie the want of diffresse to the Justice he Certificate, may fend his warrant to some other under hand and feal, to levy forty shillings of the officers goods by diffreffe and fale, after fix dayes, returning the over plus. And for want of diftreffe, H 4

Cha. 19 Tipling.

streffe, he may fend the offender to Gaol till payment be made of the forty shillings, I. Iac.9.

Any one Inflice of peace may also upon his own view, oath of one witueffe, confession of the party, or upon his oath after his confession against him that shal be in any Inn or Ale-house tipling, and is forbidden by the Statute, may in case it be not paid within a week after conviction to the Church wardens of the place where the offence is done, make his Warrant to the Constable, or other inferior officer of that place, to levy three shillings four pence of his goods; and if he be unable to pay it, to put him in the stocks four hours; which if the officer doth neglect to do, the Justice may send his Warrant to some other to levy by way of distresse,

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ten shillings of his goods that is the officer.

Drnnkennes.

So also any one Justice on his own view, oath of one witneffe, confession of the party, or upon his oath that hath confessed it, against him that shall be drunk, may levie the five shillings forfeiture in the same order, as in the last for Tipling. And if he be unable, to put him in the flocks fix hours: the officers neglect to be punished as before, 4. Iac. 4. It seems also that one Justice may for the second offence, bind the offender to the good behaviour, 4. 7ac.5. 21. 7ac.7 .

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## CHAP. XX.

# Of Bastardy and Incontinency.

For the better understanding of the Law herein, these things are to be known. I. Inceft is Felony. 2. For a woman knowing her husband to live, or not having been three years absent, or by common report reputed to be dead, to be known by a man, is Felony in both of them. So any one that lieth with a marryed woman, knowing her to be married. 3. If any others lie together, they are to be fent to Gaol, three moneths without bail, and untill they give fecurity before a Justice of Peace to be of Good Behaviour for a year; the second offence is Felony. 4. A Bawde, or one that keeps a Bawdy-house, is to be whipped, fet on the Pillory, burned on the forehead with B. put in Bridewell for three yeers, and be bound to the good behaviour for life. And the second offence is Felony. All. 10, May 1645. 9. Aug. 1648. 5. Nothing can be upon proof of the Husband and Wife onely done against either party.

And as to Bastardy, these things are to be known. 1. That any Justice of Peace of the County, as well as the next and nearest to the place, may take order for thesecurity of the parish &c.3 Car.4.2. Justices of the peace are not to meddle to make order for the securing of the parish when the child is dead, or if it be living,

Cha. 20

Order.

living, but upon complaint of fome of the parish. But they are to see the offenders punished for their incontinency. 3. The order for the keeping of the child must be first made by two Justices of Peace, and therefore the Sessions do alwayes referre it first of all to the two next luflices of peace. 4. If the two Juffices of peace caunot agree upon the order, it must be referred to the Settions. 5. The mother may be examined upon oath touching the reputed fa-6. Where the parties doe marry rogether before any order made, the Justices of peace do not use to intermeddle; yet here it feems the parties may be punished for their incontinency. But inquire well. The Marrimony fublequent taketh away the crime before. 7. If the parents do not appeal to the Seffions, nor

Marriage.

Commits ment.

obey the order of the two Justices of peace under their hands, upon notice, they are to be committed to Gaol till they do, or put in furery to do it, or else to appear at the next Quarter Sessions, and fland to the order of the Justices of the peace there, if they make any, or elfe to the first order of the two Justices of peace under their hands. 8. If the order of the two Justices be revoked, it must be done at the very next Quarter Sellions, otherwise the first order And therefore if the Justices at the will ftand. next Seffions, affirm the order, the luftices at any Seffions after cannot avoid it , de fic è converso. Hill. 9. 7ac. B.R. 9. The woman is not to be punished with any corporall punishment, till The be delivered and recovered. And then for the first offence she is to be sent to the house of Correction for a year; and for the second

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the is to be fent thither untill the can put Cha.20 in sureties for her good behaviour, and not to Good behaviour offend again. And then it feems the is not to viour. be punished with any corporall punishment upon 18. Eliz. 10. The child is not to be fent with the mother to the house of Correction.un\_ leffe it fuck. II. If the child be born eleven dayes after the forty weeks after the death of the father, it is not lawfull: So if it be born after the forty weeks after the time the woman charged the man to have known her, it shall not

be accounted his child.

Any one Justice of Peace may bind to the Sed . 2: good behaviour the putative Father of a Ba- The power flard child, like to be chargeable to the parish, and duty of before or after the birth of the child , Dalt 7. the Intices P. in ch. 11. So also may one Justice of peace of Sessions before or after the birth of the child, bind over herein. to the good behaviour and next Gaol delivery, or Quarter Sessions, such as shall have any hand in the fending or conveying away of the putative father or mother, whereby the child is left to the charge of a parish. 18. Eliz. 3. 7. 74e. 4. But there must be two lustices of Peace, Querum u nus, to take order for the relief of the bastard, ease and safety of the parish, corporall punishment of the Mother, and reputed Father, to commit them till they obey the Order, if Order, they make no appeal to Seffions; and if they Commits do, to bind them to appear there, and to ment. obey the Order of the Sessions; and to fend the Bind over. Woman to the house of Correction; for no one Justice of peace may do either of these things. 18. Eliz. 3.7. Fac. 4. Dalt. 7. P. cap. 11. Nor can any Juffice out of Seffions do any thing upon the

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Of the Poor, and Rogues.

Cha. 21 the last Act of 9, Aug. 1648. But conviction must be by indictment and confession, or Attainder thereupon.

## CHAP. XXI.

Of the Poor, and Rogues.

Sect. I .

Over feers of the poor, and their office.

Or the opening of the Justices of Peace Office about the poor, it is necessary we premise something of the Over-seers of the poor, and cheir office; touching which, take these things : I. The over-seers of the poor are certain officers appointed yearly to be joyned and assistant to the Church wardens of the Parish in the overfight and ordering of the poor of the parish: and they are to be chofen and made by two or more of the Justices of the peace of the County ( whereof one of them must be of the Quorum ) dwelling in or near the parish or Division, dec. who are yearly under their Hands and Seals at Easter, or within a moneth after to appoint four, three, or two fubfrantial Housholders ( according to the greatness of the Parish ) to be joyned with the Churchwardens of the Parish, and all these together are to look to the poor of the parish.

2. And in this office the Church-wardens of the place have an equal! Authority and Charge with the Over-feers of the poor; and therefore howfoever it be the common course in most places with the Church-wardens to neglect it alto-

gether.

gether, and not to meddle at all with it, yet this Cha. 2 I is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the parish, this doth suffice, and the overseers and he together may execute the office well enough.

3. The major part of them without the reft may do any thing belonging to their office.

4. They must have the consent of two Justices. Quarum unus, either in particular, or in generall, to every thing they do in their office. Dalt. F. P. cap. 40. And yet it seems they may set up and exercise a Trade by the consent of one Justice, where they are not two Justices within

the Limits. 3. Car 4.

5. The office of all these men lieth in these Sea 2. things. I. In generall, they are to take order In letting with the confent of two Justices of the place to the poor to fet their poor a work, and if need be, for that work. purpose to set up a Trade, place out Apprentices, relieve the impotent, and fuch as cannot work, or cannot live by their work. But more particularly: 2. They with the confent of two or more Justices may fet up and use any Trade, onely for the fetting a work, and relief of the poor of their own parish, without breach of any Statute. 2. They are to fet to work the children of fuch whose Parents shall not by them be thought able to keep and maintain their children, and such persons married and unmarried. as having no means to maintain themselves, tile no ordinary and daily Trade of life to get their living by; and all those that cannot get work elsewhere. And if any person so appointed by them to work, shall refuse to do, or any others

#### Of the Poor, and Roques. 110

Chap, 21 others that are able, if they refuse to work for the wages affeffed, he may be fent by any Juflice of Peace to the common Gaol or House House of of Correction, not to the place of Birth, or last Correction.

dwelling, and acoust

Sect.4. In bineing

4. They or the more part of them, with the consent of the Justices, as aforesaid, may and Apprentices ought to bind forth and place to be Apprentices, the children of fuch whose Parents shall be by them or the greater part of them thought to be unable to keep and maintain their children, but they may not bind any other mens children fo; and they unto whom they are fo bound, may and must receive them, and keep them as Apprentices; in which particular thefe things must be marked, I. They may binde them to be Weavers, Masons, or any such like trade, or they may bind them to husbandry or Huswifery. 2. It is said, they may bind any above feven, and under thirteen years: and the man-childe may be bound until he be of the age of twenty four years, and the woman child untill the come to the age of twenty one yeers. or be married. 3. They with the Justices of Peace may compell any man they think fir, to take fuch a pour child of the same parish to be his Apprentice, and that without any money at all : howbeit in this cafe, it is meet fome refpect should be had; for if the child be young, and the party to whom they would place him not very able, they may give money if they will, and it is fit that some money be given as the Overfeers and the party can agree; and if they cannot agree, as the next luffices of Peace, or as the luftices of Peace at the Sellions shall fet down.

down. Refol. of the Judges. 4. All men that Cha.21 have or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Tradef-man but a Knight, Gentleman, Clergy-man, or Yeoman, and albeit he do not keep house, but be a Sojourner, if he use Husbandry, Clothing, Grafing, or the like; or howfoever his case be, if by his Calling and Profession he must entertain and use servants of like quality, he may be compelled to take fuch an Apprentice. Refol. of the Judges. 5. If a wealthy man live so privately that he keep few or no servants, and leadeth such a life that he hath no need of fuch a fervant, yet he may be compelled to take such an Apprentice himfelf, or to give money towards the placing of him with some other. And this notwithstanding they must bear the ordinary Rates to the poor. Refel. of the Judges. 6. If there be not Mafters enough within the fame parish to entertain the poor children there; the Justices of the Peace may compell them of other parishes within the same Hundred to take them; and if there be not enough within the Hundred, the Justices of the peace at the Sessions may compel them of any parishes within the County to take them. Refol. of the Judges. 7. They may be bound to a man in regard of his ability, or in regard of his Farm, and in the last case it feems reasonable that he go with the Farm Dalt. 7.P. pag 115. 8. This binding must be by Indenture. 9. The indentures made by the Juffices, Churchwardens, and Over-seers in this case, and the binding by them are as effectual to all purpofes

Cha.21

Refol. of the Judges. 1633.

G od behas

Sell 5. In receiving the poor, and what poor they are to relieve.

as if the children were of full Age, and by Indenture of Covenant did bind themselves. 10. All fuch as are fo bound according to 43. Eliz. may be fafely received as Apprentices. 3. Car. 4. Fr. If any man refuse to accept of an Apprentice being thus placed to him, he is by the luftices of the Peace to be bound to appear at the next Seffions, or Gaol delivery; and if he refuse so to do, he is to be sent to the Gaol, till he do fo; and if he be bound to appear at the Sessions, and do so, and then resuse ( without a fufficient excuse to be allowed by the lustices of Peace ) then he is by the Justice of Peace to be bound to the good Behaviour; or if he refule fo to do to be imprisoned till he do fo, and withall he may be indicted and fined for his contempt. 12 If a speciall Rate be set on a man, to help bind Apprentices, it may be levied as other Rates, Refat of the Judges. 13 If the Parents of fuch poor children refuse to suffer their children to be bound Apprentices, or intice them away being bound, the Parents themselves may be fent to the house of correction. 5. The next main part of their Duty is, to give relief, provide Houses, and help them that are poor, and not able to live by their work. For this we must know that there are three forts of poor.

1. Such as are poor by impotency, as 1. The aged, decrepit persons, that are past labour.
2. The Infant, satherlesse, and motherlesse, not able to work.
3. The person naturally disabled in wit, or member; as the Idiot, Lunatick, blind, lame, so.
4. The person visited with sicknesse, who thereby for the time is impotent. All these being impotent and not able to work, are to be

found

found and provided for by the Overseers of ne- Chap. 21

ceffary relief.

2 Such as are fo by cafualty, as I He that is casually maimed in his calling; as the Souldier, Labourer, &c. 2 The person that is decayed by fire water robbery, foretilhip, &c. 3 poor man over-charged with children. thefe, and fuch like, having no fufficient means to maintain themselves, are to be holden, and fet on work by the Over feers, and being not able to live by their work, are further in charity. to be relieved in some reasonable proportion according to their wants. And these impotent and none others are to have houses provided for them. Refol. Judges temp. Q. Eliz. Sed. 6. For this they may ered a Cottage with the Lords conlent, 43 Eliz. 2. in any wast ground or place Inmates in houses there, Refol-Judges 1633.

3. The thriftlesse poor as 1 The riotous and prodigall person, that spendeth at play, drink. ing, &c. 2 The diffolute person, as Strumper pilferer &c. 3 The flothfull person that doth refuse to work, or doth wilfully spoil, or embezle his work. 4 The Vagabond that will abide in no service or place. 5 Such as will work, but not for the wages taxed or usually given. And for all thefe later fort, the House of correction or common Gaol is the fifteft places and to the house of Correction is he to be fent, and not to his place of Birth, that will not work at the wages affelfed or usually given; but if they have able bodies, they are to be compelled to labour, for the Rule of Christ is, That fuch as will not labour muft not eat, 2 Thef 3 10. And yet if

thefe

Chap 21 these prove unable to work, then it feems they must have Relief from the Parish as well as others.

Refol. Judes temp Qtl, Secto:

They are not to take care for Houses or other Relief for fuch as are able to work, and have or may have work; nor yet for their children, for they are by their work to maintain them also, but if such be over-burdened with children, it will be good for the Over-feers to place some of their children Apprentices; and if thefe cannot have work, the Over-feers must procure them work, for none may beg in the high way es within or without their own parish. not arany mans doors without their parish, nor at any mans doors within the parish, without order of the Over-feers of the poor. And therefore such as are able when their time is out of their houses, and services they must provide themselves with new. Refol. Judges temp Q Eliz. Sett.4.

3 Nor are they to take care of feeh as are able to live. And therefore if any such person travell thorow a parish with children, and the father die and leave them; in this case the parish is not bound but in charity to relieve them.

4 They are not to take care to relieve

Rogues, for they are to be fent away.

5 They must take care for such poor as have parents, or grand-parents, children, or grand-children, able to relieve them, as well as others, till they can be forced to help them: for so they may be by Justices at their Quarter Seffions.

6 They must take care for all such as are lawfully sent to, and settled amongst them, if

they

they prove impotent. But by the way, as to Chap 21 the point of Settlement of poor people, these se tlement things are to be known. I That this is in the of poor-

power of the Justices of Peace at their Quarter Sessions onely and no where else, except it be in the case of Rogues: And it is lest much in their discretion to be done according to the c reumstances of the Case, by Sir Francis Hervy Just. 1629. 2 Every one is to be sent and setled there where he was last rightfully setled.

And for this we must know. I That no settlement can be legall that is brought to passe by practise, composition, or agreement. And therefore if, a parish will hire a man born in A but settled with them in that parish, to go and wander in D and beg, that he may be sent to A, and he do so, this will not be a good settlement in A, and he may be sent again to his parish from whence he came.

2 No fettlement can be legall that is brought about by compulsion: And therefore if a man born in A be settled in B, and he is there thrust and kept out of a house, so that by this, and not having work he is necessitated to wander and beg in D, and thence is sent to A, he is to be sent to, and settled in B, for this was by com-

pulfion. 319270

3 A mistaken settlement is accounted in Law no settlement at all: And therefore if a Rogue be taken, and examined, and saith the Birth is at D, and it cannot appear otherwise: But he consesset truely the last place of his habitation was at S, whereupon he is whipped, and sent to S, and at his coming to S, the place

Chap. 21 of his birth is known to be at W, and the rogue doth confesseit, in this case he may bee sent to W.

4. No settlement can be legall in any parish, when the residence of the party there is onely obscure and uncertain, in a sculking way, that the parishioners cannot take notice of him: And therefore if a person come there now and then, and lie there in a Barn, or outhouse, obscurely and incertainly; this shall not be accounted a settlement in this parish.

No fettlement can be legall in any place where it is not quiet, and uninterrupted; and therefore if the party be continually interrupted by complaint to Justices, or Justices Warrants, or other disturbances by the Officers, or parishioners of the parish, this will not be ac-

counted a settlement in Law.

He or the that is in any parith a native (that is ) born in the place, or being born elsewhere, hath been there a housholder, fojourner, apprentice, or fervant for a moneth, or more at one time in peace, without just complaint to remove him, is faid there to be fetled But one that doth-travell thorow a Town, lodgeth in an Inne there, as an Immate or Gueft for two or three dayes together, or gers into an out-house or barn there, and this there for a little time; a childe at nurse with its mother. or another there a Scholler at School, or at the Univerfiry, or one that doth keep a stall in a Market only, is not effeemed by this to be fetled there, and therefore not to charge that place if they become impotent. Refol. of Judges 1633. Sell. 25.

7 When a person is unsettled regularly, Chap. 21 he or she is to be removed, and sent to the place of his last settlement. But in some speciall cases, as in the case of a rogue, who is to be sent to the place of his birth, &c. And a wise and children sent after husband and parents, it is otherwise.

If any one be once duely fetled in a parish, he may not be after removed. And therefore if they have houses or services there, that their time is out, they must get new if they bee able, otherwise the parish must relieve

them.

9 They that are fent to any one parish from another, must be offered to the Church-wardens and overseess of the poor of the place, and not to any other person.

10 If any be fent to any place contraty to these Rules, they may be sent back again to the

place from whence they came.

be sent by a generall passe, but from parish to parish And then they must be tendered to one of the Overseers or Church wardens of the parish. And if any convey them otherwise, or put them out of a place that ought por to be put our, or resuse them being duely tendered, or any other way binder the due convey of Rognes, they do forseit five pound.

12 None can be fent (by the parishioners) out of their parish but a Vagrant, Refol. Judges

Q Eliz 7.

He that is taken and punished as a Rogue, Of a Rigue.

be it he, or the, is to be sont to and setled

in

Cha.21

in the place of his birth, and there to be re ceived, if it be legally done. But if the place of his birth cannot be known, then he must be sent to the place where he last dwelt for a year, before the time of his punishment. And if that cannot be known neither, then he must be sent to the place through which he last passed without punishment, and from thence to Bridewell. 39. Eliz. 4.

And if the Rogue be a man, and he hath a wife that is a Rogue also, they must be con-

veyed and fetled together.

If the wife alone be a vagrant Rogue and hath a husband living in another parish in a house, or as an Inmate, or as a servant only; it is said the wife must be sent to him, but this I take to be after she is whipped, and sent to the place of her Birth, Resol. Judges. Eliz. Sea. 15.

And if the Rogue have children above seven years old roguing about with him; They must be sent along with him to Bridewell if they go thither. But if they were born in severall places, it seems afterwards they must be sent to those severall places. But if it be a woman Rogue, and she have a child in the nature of a nurse child that must remain with her. But if it be out of this condition and under seven years of age, then it must be sent to the place where it was last settled, if above seven years to its place of Birth.

If a Rogue be taken and examined, and faith the place of his Birth is at D and it cannot appear otherwise, but he confesseth stuely the last place of his habitation was at S. where

upon

npon he is whipt, and fent to S. And at his Cha.21 coming to S. the place of his Birth is there known to be at W. and the Rogue doth confesse it to be fo, in this case he may be sent to W. without any new Vagrancy, Refol. Indges 1633. 26.

If a man and his wife be Roguing, and they have a house in another parish, it is said they may be fent thither. Sed Quare of this, for it must be then after they be fent to the place of

their birth.&c.

None but vagrants are to be fent out of any parish, to their place of birth or last habitation.

Refol. Q Eliz 7.

And it is faid that fuch as have no meanes to live by, and refuse to work for the wages ordinarity given, that these are not to be fent to their place of Birth, or last dwelling, but to Bridewell. Cook. 2. parte Inst. 730. And yet this is against the expresse words of 39. Eliz.

If any one do beg in their own parish onely. it feems this doth not make him a Rogue, fo as to be fent to the place of his Birth. So if he onely wander into the next parish, and do not beg. But if he beg there, it feenis to be other-

wife, Pafch.7 . Car.ch. Iuftice.

He wife regularly is to be fent to and fer. Of a Hels led with her husband where he is fetled, band and though he be there but as an Inmare or Ser- wite. vant. And it is faid if the be a Rogue the thall be fent to him, which I understand to be meant after she is punished, that is whipt and sent to the place of her Birth, &c.

If

Cha. 18

If the husband hath a house in A and live there by night, but is in Covenant to serve a master in B, and there he is all the day, in this case the is to continue in A. But if the husband take a house in B. she shall be setted with her husband in B.

The wife of a Rogue if the be Roguing with him must be disposed of as her husband is disposed of. But if she be no Rogue, it seems the must be sent to the place of her last settlement, so long as the husband is in Bridewell, and then she shall be settled with him where he fetled.

If the husband be dead, and the wife turn vagrant, the is to be fent to the place of her birth, but if the be none, to the place of her last

fetlement.

It is faid that if a man hath a wife that hath a house, and is setled as an Inmate in another town, that the husband is to be sent to her to that place; But this must be warily taken.

So it is said of the wife that hath a husband in another place; who hath a house or is an Inmate there, she shall be sent to him, Refol. Judges, Eliz. 16. which I understand to be after the

punishment passed.

It is said in the Refol. Indg Eliz. Seet. 15. That the vagrant wise must be sent to her husband, though a servant in another Town. But Quere how this is to be taken, for it seems she must by the Statute of 39. Eliz. be sent first to the place of her Bigh, or last dwelling, &c. for this is part of the punishment appointed.

A LI children regularly are to be sent to and Cha. 21 series whiles they live, of children, who if they be able, are to help to maintain them by their labour.

Nursing children are to be with the mother whiles she is at Bridewell, and children above seven years old taken begging with the parents

may go to Bridewell with them.

And if under seven years they are to be, and be passed with the parents, yea if the parents birth or dwelling cannot be known, they must go to the place where they last passed through without punishment, and there be relieved by the labour of their parents in Bridewell, Refol.

Indges Q Eliz. 7.80.13.

If children unserted have no parents they be dead or not to be found, they must go to the place of their last settlement, unserts they become vagrants, then to the place of their birth if above seven years old. But otherwise young children, whose parents are dead and were settled, in that place are there to be settled, set a-work and maintained by the places where the parents dwelt at the time of their death, and not to be sent to the place of their Birth. By Fleming Ch. Instite Dale, 95, And albeit they do in this place come to seven years old, or become vagrant, yet they cannot (as it seems) be from hence sent to their place of Birth.

And yet if a woman have a barftard child in one parish, and after go into another parish with it, or become vagrant, and is sent to the place of her birth, in this case it is said, if the mother and reputed father be poor, the childe as long as it is nursing must be with the mother

after

Chap. 21 after it is to be fetted where it was borne; Refol.

Judges 1622. Sed .22.

And children at nurse with the mother, or another, if they become impotent and like to be chargeable, are to be fent to their parents, if they have any, if not to the place of their last fettlement or birth in case of vagrancy.

If the parents of children travell thorow a Town, and are not rogues, and there die, or thence run away and leave their children; this Town is not bound to keep them nor fend them away but in charity, except they become wandring beggars Refol. Judges Q. Eliz. 5.
If a child be duely letled with father or mother, and they die, or run away thence, it must there continue, and may not be fent to the place of his birth: As if a vagrant under 7. be fetled with the father, and he be dead, or with the mother where the was born, or dwelr, and he grow above 7 years, and the parents run away or die, it is not to be fent to the place of birth,

If a woman unmarried be hired weekly, half yearly, or yearly, in one parish, and there is begotten with child, and then goeth into an other parish, where she is settled in service or otherwise, for 2 or 3 moneths, and then it is discovered the is with child; in this case, thee and her child shall be setled in the parish where the was laft fetled, and not in the parish where thee was begot with childe. Refol. Judges

1622. 12.

Refol Judges Eliz. 12.

If a travelling woman that hath a fucking child, be sent to Gaol and hanged for felony; The childe shall not be settled on the parish

where

where she is hanged, but on the p wish where Chap. 21 it was born, if it can be found, otherwise on the place where the mother was taken, by the opinion of Sir Nich. Hide, 3 Car. But Quare well of this. For it seems to me rationall in this, that the Justices we their discretion, and consider wisely of all circumstances.

If a woman be delivered of a base child in one parish, go into another parish with her child, or become vagrant, and so is sent to the place of her birth, the child being under seven years old is to be sent to the place of his birth, and not settled with the mother, Refol. of the

Fudges.

If a man and his wife take a house in one parish for a year, and there during this time he is thrust out of possession, and then he takes a part of a house in another parish, and thence he is also put out in two or three dayes, and then not being able to get any dwelling they lie in a barne in a third parish, and there she is delivered of a child, in this case the parents and children are to be sent back agains to the first parish out of which they were forced, Resol Judges 1633. Sell 23.

If a woman that hath a bale childe marry a hulband; it hath been fald, he is not bound to keep it uleffe be hath an effate by her, but the place where it is fetled must keep it. But I doubt this much, whose is the Cow, his is the Calf. And if parents upon 43 Eliz. shall comprehend grand-father, and grand-mother, it shall include parents in Law as well as parents

in nature.

If I live in A, in a house there with my children,

Chap. 21 children, and I am hired to ferve one in B, and do fo, my children shall continue in 4. But if I take a house in B, it is said my children

fhall be fetled there, per Dakton. 120

If a maid fervant be got with childe at A, by her fellow fervane or another of that Town, after both their time of service do end, and they marry, and then the man is retained in service at 8, the woman delivered of her child in A; in this case the and her childe shall be fetled with the father at B, by Dalton 120.

And where ever the woman wi h child is to be fetled in the parish, if the die, her childe 1

1

will be charged on the same parish.

Apprentices TF a Servant or Apprentice be out of his time, he is not to be thrust out of the place, but must continue there and be disposed of, as his case doth require. And there, if he fall impotent, he is to be provided for, if not, when their services are ended they are to get into new services. But if the Master of an Apprentice die within the time, happily he may bee forced to provide for him for the time.

Of a Souldier.

He Souldiers maimed in the late Wars, before May 1647. must be settled in the place where he was feeled when he took up Armes Ord. May 1647.

Of other Perlons.

IF a maid be got with childe in her Masters fervice, and then goeth out of her Mafters fervice, before, or after it be discovered she is with

with childe, and the reputed father or mother Chap. 21 not able; in this chie the parish is to be charged with the child and mother, also if she do fall impotent; And the mafter is no more bound to provide for her then another. And yet if the mafter hath put her away illegally ( that is) before her time is ended, and without Order of a Justice of Peace, in this case he may be perhaps forced to keep her during the time. If the be with child before the mafter hire her, and he know it not, he may not put her away without Order of a Justice of Peace, who may do it for this cause, and then she will fall upon the charge of the parish. But if she be begot with childe during her service, then it seems the Justices cannot discharge her, and then shee must be during the time upon the masters charge, Refol Judges. 1633 Sed. 13,21.

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And if a woman unmarried, be hired weekly, or half yearly in a parish, and there she hap to be got with childe, and then goeth into an other parish, where she is ferled in service, or otherwise two or three moneths, and then she appears with child; in this case she is to be fetled in this place, and not in the place where the was got with child. Refol. Judges, 1633.

Seel. 12. Such as have able bodies and are idle, refusing to work, and no wanderers, are not to be fent to the place of birth, or last habitation, but to the house of Correction, 43 Eliz. 2. Lam. Juft Peace, 209.205. Dalt. 99.

No man man is to be pur out of the Town where he dwelleth, nor to be fent to the place of birth or last habitation but a vagrant Rogue.

rota.

Cha.21 And there if they be able they must work if they can get work. If they cannot, the overfeers must set them ro work, so that those poor whose time in houses or services is ended must get new houses and services themselves, if they be able to work, and may not be removed by Dast. 120 and others.

4. The Justices of Peace in their quarter Sessions if any question be about these things do set it according to these rules.

Such as do remove any contrarie to these rules may be fined. And if any be sent to any place contrary to these rules, they are to be ordered back again to the place from whence

they came Stai. 43. Eliz.

These Officers must provide houses as well as victuals for their poor, and therefore they may by order of the quarter Sessions, and leave of the Lord of the Manor sirst had in writing under his hand and seal, build any house for the impotent poor of the parish, in any wast part of the Manor. Also they may place more samilies then one therein, as Inmates without any danger. But then this house must not be afterwards converted into any other use: for so some a cottage afterwards

6. The next main part of their office is to make rates to enable them to do their work before mentioned. And for the manner and order of doing hereof, see Rates ch. 43.25. And these things are here further to be known.

der any pretence, a man like to be chargeable and burdensome, he may be raised in his rate to the full value of his estate there, if there be ause. Refol. of the Judges.

note

Sell. 6. In making Rates.

· DO YEM

2. They may put a speciall and extraordina- Cha. 21
ry summ upon any man to help to bind a poor

child Apprentice.

3. No relief can be had in these cases, but at the Quarter Sessions, where the Justices when they understand the case, will not relieve.

4. If the Parishioners pay not their Rate, the Churchwardens and Overseers may levy it by distresse and sale of their goods by a Warrant from two Justices, Querum unus, and for want of distress, two Justices may send him to Gaol till

he pay it.43. Eliz.2.

They are to do their work by and with the Sea. 14. money raised by the rates: Also with the money with whate that comes to them by the forseitures of Delinquents, upon the Statutes against Ale house-keepers and Tiplers, sale of Tenters, default of Clothiers, the flesh in Lent in a Victualling-house for taking Patridges, profaning the Sabbath, or Gods name, and such as offend against the Statute made for the poor, & against Rogues.

The last part of their duty is in giving an account. I. They are within four dayes after the in giving end of their year, and after others are appoint an account ed, to give account to two Justices of the Peace what they have received, or rated and not re-

ceived, 43. Eliz.2.

2 What flock they have in their hands, or is in the hands of any of the poor.

3 What Apprentices they have bound.

4 What poor they have fet on work.
5 Whom they have fuffered to wander.

6 Whether they have met monethly.

7 How they have made and levied their Rates. 8. How

8. How they have executed the Justices war-Chap.21 rant.

> 9. The mony in their hands they are to deliver over to their faccessours, or forfeit twenty faillings, which may be levied by warrant from two fuch Juffices to the Churchwardens and overfeers.

Sea. 9. What poor may be ..

The power

and duty of The luftices

of Seisions

herein,

No poor may beg but in their own parish and that by license of the overfeers. Nor may they beg by the high wayes though in the fame parifh, Refol. Judgertemp. Q Eliz. 2. Sect. 8. Neither may any give Alms at their door, but to fuch poor, under pain of ten shillings.

Nor can any Juffice of Peace licence the poor to beg in any case. Dalt. 7. P.fol. 152.15.3

I Any one Justice of the Peace who may of Peace out appoint overfeers of the poor, may fend to the house of Correction, or common Gael, any thistelsor idle poor that will not work, being thereunto appointed by the overfeers, or that are otherwise disorderly, by 21. Jac. 28.43. Eli 2. Dalt. 7. P. 121. 173.7. 7ac. 4.

In making Over-leers.

2 But there must be two Justices of Peace, Querum unus, to execute the Statute of 43. Eli. about the poor.

3 And two of these nearest to the place, must yearly in the Eafter week, or within a month after Easter, under their hands and seales appoint two, or more overfeers with the Churchwardens, tolook to the poor, sub pana five pound to every Justice of that division; and these Overseers and Church-wardens with the Justices confent, are to make rates, bind Apprentices, fet the able poor on work, and provide for the impotent poor. And if any be grieved with the Act of

of these two Justices of Peace, they may ap- Cha.21

peal to the Quarter Sessions, 43 Eliz.

4 And two luftices must confirm the over- in rating feers rates, and may enforce the payment there- and levying of, and require an account of them by impri- of money. Yonment, on their refufall, and force them and others that have any flock in their hands, by diffresse and sale of goods, to pay their succes-

fors the mony in their hands.

These Juttices may, if they perceive the parish nor able to bear the poor, charge any place within that hundred, to pay to the overfeers of the poor of this parish, what summes they think fit. 43 Eli. 2 But if they go further then the hundred, it must be done at the Quarter Sessions. And if the Justices of peace at their quarter Seffions fet a rate upon the parents, grandparents, or children, and they pay it not, they forfeit twenty thillings a moneth. The which money these two Justices may give their Warrant to the Churchwardens and overfeers to levie by diffresse and sale of their goods; or in default thereof, they may fend the party to prison till he pay it. But Quere, if this may be ment, done by one warrant, and if the Justice may fend to prison without proof of lack of distresse. And how it may be proved but by Inditement. 43. Ali. 2. Also they may send their Warrant to the present or subsequent Overseers and Churchwardens, to levie by diffresse and sale of goods, all the Rates and Arrears thereof, and any money behind in account in any Overfeers hand. And for want thereof may commit them

to Gaol till they have paid it. 43. Eli.2. In making 6 They may punish in such fort as before, apprentices

fuch

Cha.21

fuch as refuse to take Apprentices appointed to them, and such as refuse to let their children be bound Apprentices.

In fetting poor on work. 7. Any two Justices of Peace may take order to set on work Souldiers, and Mariners that come from Sea, if they cannot get work where they live. 39 Eli. 4. 8. They may give warrant to levie the twenty shillings on the Overseer's for neglect of their duty. But no way of conviction set down. And therefore it must be by Inditement, 25 some hold.

In taking an account.

8. They may compel and take the account of the Overseers and Churchwardens every year at the end of their year, 43. Eliz.2. and make them pay that which is in their hands, sub pana twenty shillings. They may take the account of Parsons, Constables, Churchwardens, and Overseers, who have the disposall of any summs of money given since. 4. Jac. to be imployed for the binding of Apprentices, who are bound once a year within a moneth of Easter, to give them an account thereof.

9. The Churchwardens and Overseers in the first case, they may force by sale of their goods, or for want of goods, by imprisonment. But how this thall be done without Inditement to convict the offenders unlesse the officer ap-

pear and refuse in presence Quere lien.

In giving license to travellor beg. 10. Any two Justices of Peace may license poor people to go to Bath for cure of their discases: them that suffer shipwrack, and poor Souldiers and Mariners, to go from their place of landing, to their place of birth, or last habitation; but in no case can they license them to beg. But a poor Souldier or Mariner in his away

away home, may beg by 29. Eli. 17. One Justice Chap. 21 may licen e a Souldier, or Mariner, landing here, and give him a convenient time to go to the place whither he would go.

As touching Rogues, these three things are Waat a to be known. 1. That a Rogue, or a wanderer Rogue is. (being all one) is an idle Begger that dorh wander and loyter abroad from place to place, without a lawful Pasport whether he beg or not.

And first, all persons above seven years old, that go about begging or wandring idly, under any pretence whatfoever; but a child under feven years old cannot be a Rogue. 2. All idle persons that go about using unlawfull Arts, as Juglers, Fortune tellers &c. 3. All Proftors, Parent gatherers, Collecters for Gaols, prisons or Hospitals, (but not Paten-gatherers for fire.) 4. All Fencers, Bearwards, common f'layers of Enterludes, and Minstrels, wandring abroad. 5. All Pedlers. Tinkers, Petry chapmen, and Glaffe men wandring abroad; especially if they be unknown, and have no good Testimoniall. 6. All wandring persons, and commou Labourers, being able to work that loyter, and refuse to work for reasonable wages, not having whereon to live. Refol. Tem. Eliz 10.7. Such as having license from the Overseers, to begge in their own Parish, do beg elsewhere. Idem. 15. 8. Those who wander in the habit of Egyptians, not being Felons. 9. Souldiers and Mariners that beg, especially if they counterfeit a certificate of their Commanders, not being Felons. 10. Persons that go to or from Bath, and do not purfue their License. 11. A Rogue whipped, that doth not purfue the directions of his K 2

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Sea. 11.

Chap. 21 his Testimoniall, or that doth beg. 12. Hee that doth go with a generall Pasport, and not from parish to parish. 13 He that shall go with his Pasport himselfe without a guide : yea, it is held now that none can go with a Pafport but he will be a rogue, and that all Pafports are void 14 Servants that go out of their Parishes in service into another, without a Testimoniall, or with a forged Testimoniall, 5. Eliz. 4. 15 Such as run away, or threaten to run from their charges, and to leave them to the parish. 7 Fac.4. 16 A Souldier or Mariner that hath a penfion and shall beg or counterfeit a certificate. 43 Eliz. 3. 17 Those that are fick of the plague, and wilfully go abroad in company, contrary to the Officers command. All these are held to be rogues. And a Feme covert being a vagrant, is to be accounted a rogue as well as a man, Dalt. J.P.chap. 47. 21 Jac 28. 39 Eliz.4. 1 Jac. 7. But if the Parents were not rogues, the children shall not be accounted fo, unlesse they beg and become so. But such as begin their own parishes onely, or wander onely into the next parish, and do not go about the Countrey, are not accounted rogues. 43. Eliz.2. Lamb. J.P. 209, 295. Dalt. 99. therefore if fuch as have able bodies to work, and do not wander out of their parish, and have no means to live by, and refuse to work at the wages ordinarily given, are not to be fent to the place of their birth, or last dwelling by the space of a year, but to the Bridewell. And fo also are such as have means, if they be diforderly persons. Cook . 2. part. Inft. 730. So it feems the Law is for fuch as beg in their own Firft, parishes.

First, he must be whipped openly, till his bo- Chap. 2 I dy be bloody. 2 He must have a Passe or Te- Sest. 12. ftimoniall under the hand and feal of one Ju What that! flice of Peace, or under the hands and feals of be done with the Minister, Constable, and one of the parish him. besides, appointing him whither he shall go. which way, and in what time. 3 With this Paffe he is to be fent and conveyed from parifh to parish by the Officers thereof, the next way to the parish where he was born, if it may be known by his confession, or otherwise: If not, then to the parish where he last dwelt before the fame punishment by the space of one year. 39 Eliz. 4 Or if neither can be known, then to the parish thorow which he last past without punishment; and the Officer thereof shall carry him to the correction house, or common Gaol, where he is to be till he be placed (if able) in fervice, if otherwife, in an Almes house.

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Upon which branches these things are to bee known. I Generally, the wife and children must go and be with the husband and parents. And if a wife become vagrant, she is to be fent to her hufband. Refol. of the Judges, Temp. Eliz. 2 None shall be forced to turn rogue, fo as to be fent, &c. 3 None but a rogue is to be thus used; for if a servant be out of his time, or is idle, or go into another parish, and is there idle, he is not so to be handled. So if a Traveller paffe thorow a parish. 4 The child of a woman hanged for felony, is to be fent to the place of its birth; and if that cannot bee known, to the place where the was taken. 5 He that doth run, or threaten to run from his charge, &c. Such persons as being allowed by

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Chap.21

the Overfeers to begge, exceed their licence: fuch as have been infected with the plague, and able idle persons, that being poor, refuse to work, are not upon their delivery to be fent unto their place of birth, but to their place of dwelling, if they have any; if not, where they last dwelt for a year. Dalt. 7.P f. 181. man is to be put out of the Town where hee dwelleth, or to be fent to his place of birth, or last habitation, but a vagrant Rogue, (that is ) fuch a one as doth wander abroad in the Countrey, and not others, and the loyterer that will not work for the wages affeffed, may bee fent to the house of correction. Refol. of the Judges, Temp. Eliz. 9. See more of this before, on Settlement of the Poor. 5 He that is found in the privy fearch, may be punished by the Justice of Peace, or fent to the house of Correction there to be fet on work. 6 He is not to be relieved: if any Officer give him money, or an Alchousekeeper lodge him, he forfeits 10 shillings. Dalt. 7.P f.156,157. 7 He that doth any thing in hinderance of the execution of the Statute doth firfeit five pound, and to be bound to the good Behaviour 31 Eliz 4. 8 Such a one as is able to labour, and thereby to help himself and his, and doth threaten to run away, and leave his charge to the parish, or doth fo.

Sea. 23.
Incorrigible
Rogues, who
and what is
to be done
with them.

Commit.

ment.

Such a one as doth appear to be dangerous to the people, that doth offer violence, or use any threatning speeches towards them, or will not leave his roguish life; but either being punished and sent home, doth rogue again, or affirm that he was born in such a place, or last dwelt a year in such a Town, and when he is come thi-

ther,

ther, it appears to be false. Dalt. I.P. 151. These Chap. 21 are by the Conftables to be brought before the next Justice of Peace, who may secure them. And two Justices of Peace may fend them to Committhe House of Correction, or Gaol, till Quarter ment. Seffions, and then they are to be branded on the left shoulder with an hot iron, &c. and from the Sessions to be sent to the place of their last habitation. 1. Jac. 7. 25. And he that falfifieth the place of his birth, is to be fent away by the

two next Justices of that place.

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Any one Justice of Peace may cause a Soul- Sell. 14. dier or Mariner that hath a pension, and shall The power beg, or shall counterfeit a Certificate. 43. Eliz. and duty of or any other Rogues and Vagabonds which a Juffice of Peace herein shall be begging, wandring, or mis-ordering out of Seisia themselves, to be whipped and sent to their ons. place of birth, &c. with a Testimoniall of their Correction, the place to which they are to go, and the time in which they are to go it; or fecure an incorrigible Rogue till two Justices can fend him to Gaol,&c. 39. Eliz.4.1. Fac.7. But there must be two Justices of peace Quorum unus, that may by Warrant under their hands and feals, upon Confession of the offence, or proof of two witnesses, cause to be levied by diffresse and fale of the Goods of the offender, all the Forfeitures upon 39. Eliz 4.1. Jac. 7.viz. five hillings of the Minister for not keeping a Regifter Book, ten shillings of the Constable for not doing his endeavour to punish and send home Rogues, twenty shillings of him for not punishing and sending away a Rogue that is brought to him by another, ten shillings of any man that doth not apprehend him at his house K 4 begging

Cha. 21

begging, or that bring them out of Ireland hither. And to dispose of the money to the use of the poor, or for Bridewell, according to their discretion So also there must be two such lustices, that upon confession or proof of two Witneffes, may by Warrant under their hands and feals levie five pounds by Diffresse and fale Good behas of Goods, and binde to the good behaviour

viour.

fuch as hinder the Execution of the Statute of 29 Eli 4. for Rogues; as the officers that shall fend a Rogue by a general! Pasport, or refuse to receive a Rogue being brought to him, or shall fhift him away, or shall not deliver him to the next parish, or any person that shall rescue, or shift away a Rogue; or the Church wardens and Over feers of Parishes, that having such a one duly fent to them, refuse him; or being duly fetled remove him. So there must be two fuch luftices to hear and determine any other Question upon the Statute of Rogues, which it teems th y have power to do out of Seffions, as well as in Sellions. Dalt. 7. P. fol 156. 39 Eliz 4.

Also there must be two such Justices to send to the house of Correction or Gaol such as do run away and leave their families; or that may, upon oath of two witnesse; send to the House of Correction such as threaten onely to do fo, except they give security to save the Parish harmlesse. 7. Fac 4. or to commit any incorrigible Rognes to Bridewell; and it feems alfo, that two luftices may meet twice in a year, or nore, for the Execution of the Statute of 7 Jac. 4. against Rogues, may four or five days before fend their Warrants for a privie fearch,

Search. Warrante and to apprehend and bring them before them, Cha. 22 and to require then all the Constables of Hundreds and Parishes to be there, and upon Oath under the Ministers hand to present what Rogues they have taken, punished, and sent away, and fine forty shillings or under, any of them for their default of not appearing, or not returning, or for not executing the Justices Warrants in the convey of Rogues to the house of Correction. 7. Jac 4.21. Jac. 28. But it is convenient there be more than two Justices at this Meeting. Dalt. I. P. fol. 157.

## CHAP. XXII.

Of Masters, Servants, Apprentices, and Labourers.

Touching Masters, Servants, Apprentices, Who may and Labourers, these things must be known use trades. The words of the Statute in this case are Apprentice, these: None but such as now lawfully use or exercise any Art, Mystery, or manual occupation, shall set up, occupy, use, or exercise any Crast, Mystery, or Occupation now used or occupied within the Realm of England or Wales, except he shall have been brought up therein seven years at the least as Apprentice, in manner and form about said, sub pana forty shillings a month.

5. Eliz: 4.4. Ph. of M. 5. 188. 1. Jac. 22. For opening

Cha.22

ing of which branch, these things must be taken in. I. Any man by the common Law might have used any Trade, or as many Trades as he please; and all Ordinances of Restraint herein were void. But now it feems a man may not use divers trades, unlesse he have been Apprentice to them. But if the Master be a Mercer, and he did alwayes fell Grocery wares, the fervant may do so likewise. 2. By manual Occupation is meant Clothier, Weaver Dier, Tailer, butcher, Baker, Brewer, Cook, Chandler, Millard, the trades undernamed, and the like. Yet it feems, the Statute doth intend other Trades as well as manuall occupations. 3. Sale by Retail is an occupation within this Statute. 4. One may be, or hire and keep a Candler, Millard, Baker, Brewer, Gook, or Tailer for his own use, that hath not been trained up in it, nor Apprentice to it a for it is the publick and common use of the trade to get a living by, and for gain, not the private use, which the Statute intendeth: but he cannot retain an Apprentice in the trade. 5. To make a man of a trade, he must be Apprentice to him, who did openly, commonly, and by publick profession, sell, & not privatly by stealth. 6. If a Tradesman die, his Wife cannot use this trade, except it be in London, which is by special custom; and a Tanners wife in a special case by 1.7ac.22. 7. It is sufficient to inable a man to a trade, that he hath been brought up feven years in it, though he be not bound by Indenture, But in some cases by the Statute he must be bound by Indenture, and as an Apprentice. 5. El.4. Dal. 7.P.99. 8. An Infant under twenty and one years old, may bind himself Apprentice by Indenture

Infant,

denture according to the Statute of 5. Eliz.4. Cha.22 Dalt. 7. P. 100, 101. And if he bind himself otherwise then by Indenture, it seems it will bind him, by Trin. 21. Fac Cook B per curiam. But if the Agreement be against the Statute of 5. El. it is void.

9. No Butcher during the time he doth exercife that Trade, can use the Trade of a Tanner, sub pana fix shi lings eight pence a day. 1. Fac. 22.

10. No Currier during the time he doth exercise that Trade, can use the I rade of a Tanner, Cordwainer, Shoo-maker, Butcher, or other using cutting of Leather, sub pana 6.s.8.d. a Hide. 1. 7ac. 22.

See 5 Eliz. 5. for Mariners and Gunners, and 2, 6 3. Ph. 6 Mar. 11. about

Weavers.

1. All those that are unmarried, and others Sea. 2 under thirty years old that have been brought who may up in the Trades under named, [ in Retainer ] be compelor that used them three years or more, not ha- and how. ving in any kind of Land, or Rent, an Estate in Fee, or for Life de claro, 40.s. per annum, nor In Trades, in goods, 10.1. de claro, and so allowed by the two next Juffices under their hands and feals, not being retained with any in husbandry, or in either of the faid Trades, or some other, or lawfully retained, and in Office or fervice with some Nobleman Gentleman, or others; Nor having a convenient Farm or Tillage of his own whereabout he is imployed, upon request of any one using the same Trade, shall be retained by him. 5. Eliz. 4. And if they refuse to serve for the wages affeffed, or promise to serve, and do

Cha.21 not; any one justice of Peace upon complaint may hear the matter, and if he find them faulty, commit them, till they give bond to the Masters to conform, and to ferve according to the Law.

2. The man-childe may be bound till he is 24 years of age, and the woman till 21, of those Poor of fuch Parents who are not able to main-

tain them.

In Husbandry.

All persons of men-kind, between the age of twelve and fixty, not using the Seas, norin service with any Fisher, Husbandman, Kidder, or Carrier of corn and meal for Lenden; nor in any city or market Town with any Tradefman there allowed to take an Apprentice, nor being retained by the year, or half year, about the feeking or working of Silver, Tinn, Lead, Iron, Copper, Stone, Coal, making of Glaffe, or not being a Gentleman born, a Student or Scholar in any University or School, not having in Land or Rent, in Fee or for life, de clare forty fhillings per ennum, nor in Goods ten pound, nor having a Father or other Ancestor living whose heir he is, and that hath such Lands of ten pounds a year, or Goods of forty pounds, not being retained, nor having a Farm [as before in the last clause | nor otherwise lawfully retained according to this Statute, shal be forced to ferve by the year in Husbandry, the Hufbandman that shall require him. 5. Eliz. 4. And if they refuse to serve for the Wages appointed, or promise to serve, and do not, any one Justice of Peace upon complaint may hear the matter, and if he find them guilty, commit them till they give bond to their Mafters to conformand to ferve according to this Law.

Commits ment.

4. And

4. And fuch Woman as is twelve years old, Cha. 22 and under forty, and unmarried, and out of Women. fervice, if the Justices see her fit to serve by the year, week, or day, they may compell to ferve for fuch Wages, and in fuch fort, as the Juffices think meet. 5. Eliz. 4. or commit her to prison, till she give bond to do it.

5. None is to be compelled to be bound an Apprentice after he is twenty one years old.

5. Eliz . 4.

6. In Harvest time to save the corn, and when need is, any Justice on complaint may compell those Artificers and others to work in that work he thinks them fit for, by the day. And if he refuse, put him in the Stocks two days and a night; and this the Conftable must do, sub pana 40.5.5.

Eliz.4.

For the better understanding of which branches, these things must be known: 1. He that hath not sufficient lands to occupy or live upon, or another trade, is compellable to ferve. 2. That if any of these men or women, not able to live at their own hands by any visible meanes they have, be warned by two Justices of the Peace. to put themselves in service, by a day ser them. and they do not; but continue to work at their own hands, they may be bound to appear at the next Seffions, or affizes, and to be of good behaviour in the mean time, or may be fent to Good beha. the house of correction. Resol. of the Judges. viour. temp. Car. 17. 3. One that wandreth may be Sell 17. forced to serve; but his first master, if he have any, will have him again. 4. The children that everfeers of the poor may bind, must be above feven. See Poor. Wollen

Sect.3.

Chap.22 Sect.4. About retainer, hiring Of Apprens tices.

I Wollen cloth Weavers making cloth commonly to be fold by Clothiers ( excep fuch as live in the Counties of Cumberland, Westmerland. Lancaster and Wales, that weave Frizes, and keeping. Cottons, or Houswives cloth onely ) may not take any Apprentice, or instruct any one but his fonne in their Trade, in any place but cities, Towns Corporate, or Market Towns, unleffe the Father or Mother of the Apprentice have at that time an estate in Fee, or for life, of some herediraments de claro three pounds per annum, to be certified by three Justices under their hands and feals. The tenor of the Indenture to be registred in the parish where the Master dwels fub pana twenty fhillings a moneth. 5 Eliz. 4. 2 Every Housholder using half a Plowland, or more in Tillage, may by Indenture take to his Apprentice in Husbandry any one above ten, and under eighteen years old, untill his age of 21 at the leaft, or until his age of twenty four. as they can agree. And he may require it: and if the party refuse to be bound, he may be enforced to it upon his complaint, by a Justice of Peace, 5 Eliz.4. 3 Every Honsholder in any Market Town not Corporare, of 24 years old, using any Trade, Art, or Mystery there (he not. being a husbandman or labourer ) so long as he useth the trade, and the town is a Market town, may take to his Apprentice the child of any other Arrificer ( not being Habandman or Labourer) of the same or any such like town in the County to any Trade commonly ased in that Town (after the custome of London) for seven years, fo that it end not before he be twenty four years old, 5 Eliz 4. Every.

Every Housholder in any City or Town cor-Chap.22 porate, of twenty four years old, using any Trade, Art, or Mystery there, may, during the time he shall inhabite there, and use that Trade, retain the sonne of any Free-man therein, or in any such Town (not being a Husbandman or Labourer) to be his Apprentice (after the custome of the City of London) for seven years at least, so as it end not before he be twenty four

years old, 5 Eliz. 4.

But he that lives in a Market town not corporate; and useth the Mystery and crast of a Merchant trading beyond the Seas, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier that doth put cloth to fale, may not take an Apprentice, or instruct any one in that Trade except he be his own fon, or the Father or Mother of the Apprentice have at the time of the taking of him, an estate in Fee, or for Life, of some hereditaments de claro, three pounds a year at least, to be certified under the hands and feals of three Justices of the County, to the head Officer of that City or Town. any fuch person as liveth in a City, or Town Corporate, must take no Apprentice, except his parents have forty shillings a year as in the last in every partitular. ] 5 Louden, Norwich, and Godalming in Surrey, may take Apprentices according to their customes, 5 Eliz. 4. 6 The Smith, Plow-wright, Wheel-wright, wright, Carpenter, rough-Mason, Plaisterer, Sawyer, Lime-burner, Brick-maker, Brick-layer, Tyler, Slater, Hellier, Tyle-maker, Linen-Weaver, Turner, Cowper, Miller, Earthen-potter, Wollen-weaver, weaving Huswives or Houshold Cloth Chap. 22 Cloth onely, Fuller, or Tucker, or Walker, Burner of Oare and Woad afhes, Thatcher, or Shingler, may take any Apprentices in their Trades, though their parents have no efface in lauds at all, 5 Eliz.4. 7 He that is retained as an Apprentice, must in some eases be retained by Indenture, and by the name of an Apprentice, 5 Eliz. 4. But another servant may be retained by word. 8 He that is under twenty one years old, and is bound by Indenture to any Art, or Trade, according to the senor of this Statute, is bound as much as if he were of full age, 5 Eliz. And so in other cases. 9 If any retain any Apprentice contrary to the true meaning of this Statute, he forfeits ten pounds. And all Indentures, Promifes, Covenants, and Bargains, for the taking or keeping of any Apprentice otherwise then is appointed by this Statute are void to all intents in Law, 5 Eliz. 4. 10 He that hath three Apprentices in the trades of Cloth-maker, Fuller, Shearman, Weaver, Tayler or Shoomaker, must keep one Journey. And for every other Apprentice above the the number of three, one Journeyman, sub pæna ten pounds, 5 Eliz. 4. the Statute of 5 Eliz. 4. after the clause before, forbidding such as have not been Apprentices to nie Trades, these words follow, (viz.) None may fet any person on work in any Mystery, Art, or Occupation, being not a workman at this day, except hee shall have been Apprentice, as is aforefaid, or elfe having ferved as an Apprentice, as is aforefaid, shall become a Journey-man, or hired by the year, fub piena 40, s a moneth. 12 None may hire any

any person, or be hired to serve or work with Chap. 23 him for leffe time then one year in these trades. viz. of Clothiers, Wollen cloth Weavers, Tuckers, Cloth-workers, Fullers, Shearmen, Dyers, Hofiers, Taylers, Shoomakers, Tanners, Pewterers, Bakers, Brewers, Glovers, Smiths, Farriers, Curriers Sadlers, Spurriers, Turners, Cappers, Hat-makers, or Felt-makers, Bowyers, Fletchers, Arrow head-makers, Butchers, Cooks, Millards, 5 Eliz. 5. By Dalt. 7 P. fol. 97. This clause extendeth onely to these Trades. not to hulbandry : Yet ( faith he ) no retainer of any fervant for leffe then a year, is good. Quare, For then the affelling of wages for leffe time were void. It must be directed therefore to retainers for hulbandry by that branch before, by which men are compelled to ferve by the year in husbandry; but by agreement they may ferve for leffe time. After the clause in the Statute of 5 Eliz. forbidding any to give or take more then the wages affeffed, this clause followeth, (viz.) And that every retainer, promile, gift, or paiment of wages, or other thing whatfoever contrary to the true meaning of this Statute, and every writing and bond to that purpose, shall bee void and of none effect. 13 If any Mafter retain a servant that hath not brought his Testimoniall, and shewed it to the chief Officer of the place where he is to be retained, he is to lose five pound, 5 Eliz.4.

For the clearing of which, these things are to be Sed. 52 known: I By the retainer the servant is present-Iv in fervice by law, though he be not fo indeed, and therefore his not coming is a departure. 2 If the retainer be by one, that by the Statute

is not able to keep a servant, it is void. 3 If a retainer be generally, and they agree not how long, it shall be for a year. 4 If one retain for forty dayes, and after another doth retain for a vest, the first is void, and the last good. 5 If the retainer be to ferve according to the Statute, on condition, or generally, and fay not what to do for three years, or for life, and no wages spoken of, it is good, Dalt. J. P. ch. 31. But a retainer for a year to serve when he shall be required, or for forty dayes, is not good. 6 This Statute extends not to Serving men, but is for Servants of Husbandmen, and Handicraftsmen. 7 If the retainer be by Deed, he may bee bound to the Deed. For if one not compellable to ferve in Hufbandry, covenant to ferve, he is bound by his covenant, and may be punished if he depart. 8 One cannot retain an Apprentice in that Trade wherein himfelf hath not been brought up. 9 The Certificate of three Justices to the Head of a Corporation, of the ability of the Parents of the apprentice is not necessary; but it is needfull that he be of that ability, Dalt. J. P. f 98. 10 If one take an Infant, or other tervant, out of anothers fervice, though he be not retained, it is punishable, Dal. J.P.ch.31. Compleat Juffice. f 148,149. 11 See more in Departure, 1 Jac. 24.3 Jac. 9.1 Ja. 17, 16.

Sea. 6.

How they must demean give him diet and wages, and what is fit, which themselves one toward he may have relief by the Justices of Peace, to another.

Masters, Apprentices, 2 The servant must carry himself dutifully servants, and obediently: and if hee do otherwise, he

may

may be punished, and the Master is to complain Chap. 22 to the luftice of Peace. If any Servant, Workman, or Labourer, wilfully or malicionfly make an affault or an affray upon his Mafter or Mistreffe, or any other appointed by them for the overfight of the work, he may be imprifoned or further punished for it. And if there be cause, the Justices of the Peace at the Sessions may discharge him of the Apprentiship. 5 Eliz. 4 If any Labourer or Artificer that taketh Labourers, upon him to do any work, do before he hath finished it, leave it, unlesse it be with the Masters license, for lack of pay, or that he is called to a publick fervice, or for other good cause, he shall be imprisoned one month, and forfeits 5 pound. which the Mafter may fue for in the Seffions, and recover above his damage at Common Law 5 Eliz.4. 5 They must work from the midst of March, till the midft of September, from 5 till between 7 and 8, and all the rest of the year from the break of day till night, all the day, (except two hours and a half allowed for his meals,) sub pana, one peny for every hour he is idle, to keep out of his wages, 5 Eliz.4. 6 If a Servant be put away by his Mafter without cause, it seems he shall have all his wages. And if he be of age, and agreeth to part, yet he shall have his wages pro rata for the time of his fervice which the luftice of Peace may help him to, for he cannot fue for it. But if the fervant of his own head depart before his time he lofeth his wages. If the fervant within his time fall fick, or lame, if it be in doing his Masters work, or by the act of God, it feems he is to have his wages! If the fervant be an Infant, yet if he do his

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Gha. 22 work, he shall have his wages, 9. If the retainer be according to the Statute, the Executour of the Mafter after his death, shall be charged for the wages. And if the retainer be by Deed, though it be not according to the Statute, if it be not against it, it seems the wages is recoverable. Compleat Justice 149. Dalt 7. P. fol. 103.

Sect. 7. Affeffment. of wages.

The wages of all Husbandmen . Artificers. Weavers, Semfters, Labourers, Servants, and oother workmen whatfoever, by the year, month, week, day, or otherwise, with or without meat and drink; and what every man shall take by the great for mowing, reaping, or threshing of Corn, for mowing and making of Hay, for ditching, paling, railing, or hedging by the rod, perch, lugge, yard, pole, or foor, and the like, must be set down by the Justices of Peace at their Quarter Seffions next after Eafter, or at a generall meeting within fix weeks after Eafter. And this the Sheriffe is to proclaim; which being done, every man is bound to observe them; fo that if any refuse to pay so much as they affeste, he is to forfeit ten shillings to the party grieved. And if the Master, directly or indirectly, agree for, or give more, he shall be imprisoned ten dayes without bail, and lose five pounds. And if the Servant agree for, or take more, he is to be imprisoned one and twenty dayes without baile. But it feems they are not bound to this Rate on either fide, till it be proclaimed. 5. Eliz. 4.6. Fac. I.

Se8.8. About dife charging, & put in a: way of er vants, or ap= prentices.

None may put away his Apprentice himfelf, nor can be discharged but by order at the Quarter Seffions, under the hands and feals of four Juffices, Quorum unus. 5. Eliz.4.

2. None

2. None that retaineth a fervant, may put him Chap. 22 or her away before the end of their term without cause allowed by one or more justices of the Peace, nor then without giving a quarters warning, Sub pona 40.s. if he cannot prove by two witnesses he had cause allowed, and did give warning. 5. Eliz. 4. For clearing of which, know this, I. The mafter cannot discharge his Servant within the time, unlesse they both agree to it, by which it may be done if they be both of age. 2. An Apprentice cannot be difcharged by word, as another servant may be, but it must be by writing. 3. If a woman fervant marry, yet she must not be put away, but must serve her time. So if two married people bind themselves, they must serve the time. 4. If a woman with childe be hired, and the Master know not of it, he cannot, but the Juflice of Peace may put her away for this caufe, before the end of her term. But if the be gotten with childe in his fervice, she is not to be put away till the end of her term. Refol. of the Judges, tempore Caroli Regis 21. 5. The mafter may not put away his fervant, because he is fick, lame, or the like, with the time. 6. If the Master wil not allow the servant necessary food, lodging and the like; or will not pay him his Wages, or the like; or correct him immoderately, or will not license him to depart; the Justice of peace may allow him to depart, but he cannot depart of himfelf. 7. A fervant cannot be discharged by his master, without his own Agreement, or for fome cause allowed by a Justice of Peace. 8. Some fay, an Apprentice cannot be discharged by his Master without writing: L 3

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Chap.22 writing: But this is doubfull, for if the Retainer may be by Faroll (as in some cases it may be)it feems the discharge may be so also. 9. It is thought by some, that the Servant with the mutual confent of Matter and Servant, may be put away, and that this may be without the al-Iowance of a ! uffice of Peace. Dalt, 7.P. f. 102.

Seet. 9. About departureof fe vants or apprentices,

1. The not coming of a Servant hired, according to his Covenant, is a departure in Law. Dalt.I.P.

2. No Servant retained according to the Stature, shall without cause allowed by one Justice of Peace, depart out of his service before the end of his or their Term, 5. Eliz. 4. nor then without giving a Quarters warning before two Witnesles. And if he do, he may have remedy by two Juffices of peace, who may, (if upon examination of the matter they find him faulty ) commit him to prison, till he give bond to his Mafter to serve him for the wages appointed by the Statute.

3. No Apprentice may depart without License under hand and seal of four Justices of the peace, Quorum unus, at the Quarter Seffions

5. Eliz.4.

4. A departure may be in an Apprentice, or Servant that is hixed otherwise than the Statuce; as fany of those not compellable to serve, will voluntarily bind themselves, and contrary to their Agreement depart, they may be punished by the statute. But if it be fuch a Retainer that is forgotten by the Statute; as for more Wages, leffe time, ore then it feems the Starute makes it void. And if there be no retainer, there can be no departure.

5. No

5. No person retained in any of the Trades Chap. 22 abovefaid, or in husbandry, may at the end of Testimonial his term depart out of one place into another. without he have a Testimonial in writing, under the feal of the City, if it were from a City; or the Conftable, or other head officer, and two honest housholders, of the place where he last ferved, to flew his lawfull departure, and from whence he came dyc. 5. Eli.4. And he that doth fo.is to be imprisoned till he get one, which if he get not within twenty one dayes after Imprisonment; or if he counterfeit or forge his Testimoniall, he is to be whipped and used as a Vagabond. Labourers that have been used to go into other Countries at Harvest time, and for Of Labous harvest work, may go thither, if there be not eri, sufficient in their own county, as they have been used, but then they must bring with them a Testimonial under the hand and seal of one Juflice of the peace of the County, 5. Eliz.4. For clearing these things, know this. I. A womanfervant being married cannot depart, but must ferve her time. So if two married people bind themselves. 2. If he come not according to promile, or refule to do his work, though he flay with him, this is a departure in Law. 3. if a fervant depart, his Master may take him again. retain him. 4. They that cannot be put way. cannot depart without leave, or agreement. (See before.)

6. All the offences against this Statute may be punished at the Quarter Sessions, or special Seffions. 5. Eliz. 4. 31 Eliz. 4. The Forfeitures out of Corporations for these Offences go half to the King, and half to him that will fue, 5. Eliz.4.

Any one Justice of Peace may do these fol-

Cha.22 Se8 10. How fuch Offenders shall be punished; The power and duty of suffice of our of Selfions. Commit= ment. Apprentice. Commita

Houfe of Correction. Licente.

ment.

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Apprentices

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lowing things, vig. 1. Upon request, put in the Stocks two dayes, and one night, such as be in their discretion fit to work by day in the Harvest time for faving of Corn, or Hay, and required, refuse to do. 2. Command vagrant perfons to prison, that will not serve. 3. Upon the complaint of the Husbandman, that hath half a Peace herein Plough land, or more, or other, compell fuch a one as he in his discretion shall think fit to be bound Apprentice with the Husbandman, or other in Husbandry, or other Trade, de. if he defire him, and on refufall, imprison him till he do conform. 4. Upon confession, or proof, send an Apprentice that purloyneth twelve pence or above of his Mafters goods, and all his Accessaries to Gaol; or if it be under twelve pence to the House of Correction. 5. License under his hand and feal, Labourers in Harvest time, to paffe out of one County into another. 6. Allow of the cause of putting away, or the departure of a fervant within his time; otherwise of an Apprentice. 7. Send to the Gaol or House of Correction, common Labourers that will not work for the wages affeffed; and others that have nothing but their labour to maintain them, and will not work for reasonable wages; and Apprentices that run from their Masters, or are otherwife diforderly. 8. Upon complaint of the Master, Servant, or Apprentice, of any wrong done to other, in their parting before the end of the term, hear and determine the difference, and according to his difference fer down an order between them, and if the Mafter

refuse to obey it, bind him to appear at Seffi-

ens ;

ons; and if the fault be in the Servant, or Ap- Cha. 22 prentice, fend him to the House of Correction; House of or perhaps he may bind him to the good beha- Correction. viour especially if he refuse to obey his order; Good Behas and then he must bind him to appear at Seffi- vionr. ons. 9. Upon complaint, that a Servant refuseth to ferve, or to ferve for wages appointed, or to do his duty, or departeth before his term ended. is run away, or of a servant, that he doth abuse his Master, or the like; he may as it feems, send for the Party, and bind him to appear at the Bind over. next Seffions of the Peace, or happily he may fend him to the House of correction, or bind him to the good behaviour : and if the Mafter Good behaput away the Servant, the Justice it seems, may viour. bind him to answer the matter at Sessions. 10. By Agreement between the Master and Appren- Eind over. tice, and by writing under the Masters hand, it feems, he may discharge the Apprentice. 43. Eliz. 2. 7. Fac. 4. 21. Fac. 28.5. Eliz. 4 Dalt. I.P.c.31.

But there must be two Justices (and any two may do it ) to do these things following. viz. Sed 11. 1. To bind to the Affizes or Seffions, and to the Bind overgood Behaviour in the interim, or to fend to the Good behaviour House of Correction such as having no ability, vions. House of had a day by them set to put themselves into Correction. fervice, and do not. Refel. of the Judges tem. R.C. 17. 2. To punish the servant retained according to the Statute by imprisonment, till he give bond Commits to ferve; or that before his term end, and without ment. allowance of a Justice of Peace, departeth, or doth not come according to promife; or being come, doth not labour; or departeth at his terms end without giving a Quarters warning;

Chap. 22 or the Mafter by forty shillings fine, that with-

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Seffions.

out such allowance putteth his servant away before the term ends, or for not giving a Quarters warning at the end of the term to his fer-3. Upon complaint, to imprison such women above twelve, and under forty, as are compellable by the Statute to ferve, and being required, refuse so to do, till they give bond to do it. And to imprison such as are compellable to ferve in Husbandry, or other Trades, that refuse to serve for the wages affessed, till they give bond to do it, and then to be discharged without Fee. 4. To punish the Master by fine of five pounds, and Imprisonment ten dayes, for giving more wages then is appointed, and to imprison the Servant twenty one dayes for taking it. 5. To put in prison for one year, or leffe time, the fervant that is proved by his confession, or two witnesses, to have made an Affray, or Affault on his Mafter, Mistris, or Governor. 6. To make a Testimoniall to a Servant that is to be turned away, or to go away after his Masters death. 7. To punish him by the five pounds fine, that retaineth a fervant without a Testimonial. To commit them that hire servants for leffe then a year. To imprison Labourers, and fine them five pounds, for departing from their work before it be done. But these three last things (it feems) must be done in a general or fpecial Sestions, and cannot be done otherwise: and it feems, in all thefe cases before, any two Justices of Peace, Querum unus, have power to keep a speciall Sessions twice a year, between Michaelmas and Christmas; and Lady day, and S. John Baptift, wherein they are inabled by all the

the wayes they think fit, to make a diligent enquiry of the Execution of the Statute of the 5. Eliz. And where they find any default, to punish it; which they may do by indictment, Information, Grc. And for this they are to have five shillings a day for three dayes out of the fines and forfeitures. § El.4.31 El.5.Dal. J. P. ca. 13. And hence they may send process against one that is departed into another County.

If any Clothier or others, refuse to give fo Sed 12. much wages as is fet down by the Juffices of Clothiers. Peace, there must be two Justices of the peace, Quorum unus, that upon his confession or proof of witnesses, may grant their Warrant to Warrant. diffrain and fell his Goods to pay the forfeiture of ten shillings. To discharge an Apprentice Apprentice, of his Apprentiship against his Master, good Discharge, will; or where the Apprentice is not of age to agree, or he was bound by others, it must be done by four Juffices of the Peace. Quorum unus, and that in the Sessions , and cannot be elfewhere. But it may be at this private Seffions, if there be fo many there of the Justices. 5. Eliz 4: Two of the next luftices may in Easter, or within a moneth after, take the account of fuch Account. as have the disposition of any money for the placing of Apprentices in any parish within the County, by any mans gift.7. Jac. 3.

CHAP.

## CHAP. XXIII.

## Of fending to Bridewell.

Loiterers.

Ny one lustice of the Peace may fend to Bridewell him that will not work by the appointment of the Over-feers of the Poor, or common Labourers, which refuse to work for 07 332 the Wages affelfed, or for reasonable Wages, if they be fuch as have nothing but their work to live upon, Dalt. J. P. f 121. 39 Eliz. 4. 43 Eli 2. 7 746 4 So a common Hedge-breaker, or Robber of Orchards, against 43 Eliz.7. Dalt. 7. P. fel. 173. So one luftice may fend to Bridewell for three moneths, a blasphemous Heretick that shall deny the holinesse of God, upon the

Act: of which fee ch 2. 2. But there must be two Justices of Peace, Quorum unus, to fend to the House of Correction, or Gaol, such as do

tun away, and leave their Families to the Pa-

rish; or upon oath of two Witnesses to fend

Hedg-breaks ers.

Such as un from their families.

Such as have baltard ... Vagrants.

to Bridewell such as threaten to do so, unlesse they give fecurity to fave the Parish harmlesse. 7. 7ac. 5. So to commit the woman thither a year, which hath a Bastard child, that may be chargeable to to the Parish. So to commit thither one that doth beg beyond his License. So to commit thirher fuch as being poor and not able to keep their children, yet will not suffer them to be bound Apprentices by the Overfeers, but intice them away. So to fend thither fuch as live our of Service, and have no visible means of their own to maintain themselves

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without their labour, and refuse to serve as Chap.24 hired servants by the year, being warned by two Inflices of Peace fo to do by a fet day, Refol. Judges 1633. Sell 17. So to commit thither an incorrigible Rogue; vet one Justice may fecure him, till two Juffices can come together, 7 fac.4. 39 Eliz.4. Dalt. 7. P. 154. So also to commit thither any other Rogue, Va- Rogues, gabond, wandring, idle, or diforderly persons. And these the Constables are to convey them at the charges of the Hundred, Cook. 2. Inft 730. A Bawd, or one that keeps a Bawdy house, may be fent thither; but this must be by the Court of the Seffions, upon the Act of 9. August 1648. 4 A Rogue whose place of birth or last dwelling for a yeer cannot be known, may bee brought thither by the Officer of the Town thorow which he last past unpunished, when he is sent thither after he is whipped, 39 Eliz. 4. A disorderly person that hath means, Cook. 2. part Inft. 730. But no Justice may send thither him that is idle and able to work, if he have means to live by.

## CHAP. XXIIII.

Of Cloth, and Clothiers, Weavers, &c.

Seat. I. The power Ny one Justice of Peace may enter into and duty any place and fearch for Tenters, Wrin- of luftices ches, and such like Engines, which are used of Peace for the deceitfull stretching of Gloth; and of Seisions, Chap. 24 finding any by view, or oath of two witneffes, he may deface them; and for the fecond offence fell them. But there must be two Justices of Peace to dispose of this money to the use of the poor. And if the Justice upon complaint to him, doth not search, he loseth five pounds, 39 Eliz. 20. 42 El 18.

Over-feers, Recognis, zance, Oath,

There must be two lustices to make Overfeers of Cloth, or Searchers: and they must binde them by oath and bond to do their beft. that these things may be observed. I That they do once a Quarter at leaft, fearch the clothes, wherefoever they be to fee; 1 That the meafure he according to the Statutes. 2 That the Cloth be fealed, and the feal expresse the measure, and the names of the Over-feers &c. 2 That it be not firetched, nor fhrunk more in wetring then a yard and a half in length, and half a quarter in breadth. 4 That no Tenters, &c. be used. 5 That no Iron Cards or Pickards be 6 That no Cloth or Wooll be falfly dinfed. 7 That no deceitfull fluff be interposed. 8 That it be not deceitfully pressed. 2 Ed.6.2. 39 El. 20. 43 El. 20. 4 Fac. 2. 21 Fac. 18. 5 Ed.6.6 7 7ac.16. 3 7ac.1.

Sel 2.

Warrant.

Any two unices of Peace may, upon Information of any default given them by any Searcher or Over-foer of Cloth of any other, call before them any person known, or suspected to offend by mixing Flocks, Nails, Thrums, or Hair, or any deceivable things in their making of Cloth; call & swear witnesses for the examining of the matter, and if they find it true by proof of two witnesses, or the parties consession, notifie it to the Church-wardens & Over-seers of the Poor.

Poor, and give them a warrant to levie the Chap. 24 Forfeiture by diffresse, and sale of goods, and for lack thereof, may commit the offender to Gaol, till he pay the money, 21 7ac. 18.

There must be two Justices, Quorum unus, Sest 3. upon proof of two witnesses, or confession of Warrant, the party, to give Warrant to levie by diffreffe, and fale of goods, the ten shillings forfeiture upon Clothiers, and others that refule to pay their wages affeffed by the Juffices of Peace, at Eafler Seffions, 1 7ac. 6. So also there must be two fuch Justices, who upon confession, or proof of two Witnesses, may fine five pounds, give Warrant to levie it by diffreffe, and for want of diffresse commit him to prison, who doth put in any Flocks, &c. into broad Cloth, on 28 74c. 1. So to take information of the deceitfull usage of linen cloth, of him that feized it, and to bind him to give evidence at the Seffions, on 1 El 12. But any two lustices may require Weavers, Carders, &c. and their receivers, knowing thereof, that imbezle or detain wooll or varn, upon confession of the Party, or oath of one Witnesse to make fatisfaction, according to their discretion, or cause them to be whipped. or flocked 7 9ac. 7. So also these two luftices may divide defective Broad-cloth presented to them, into three parts, and give one part to the Over feers of the Cloth, and two parts to the poor,upon 4 fac. 2. 4 de 5 Ph de Mar. 5, 21 Iac. 18. So also they may divide defective clothes, Kerfies, Frizes, or Cottons, into three parts, upon 5 6 6 Ed. 6. But enquire if it may bee done out of Seffions. For the Statute is, that two luftices of the Peace may take the Prefentment

Chap 24 fentment of him that findeth the faulty cloth. to the intent the cloth may be cut into three. equal parts, the one to the King, the other to the Presenter, the third to him that it shall be prefented unto. And it feems it may. Every Juffice beyond Trent hath some power herein for to fee to the cloth of that Country, 39 Eliz. 28. 21 Fac. 18. But for the better knowledge of thefe things observe, I These severall deceits following.

Sell. 3. offence by deceits in making of Cloth, and the punilhn.ent.

1 Raifing, or Rowing of any kind of Cloth. The leverall or Kersey, with oyle, Goose greafe, Swinesgreafe, or laying on, or in, of any fuch like liquid or moist thing of any kind of grease, or oil, fave only upon the edge of the sheares, and not Shearing it plain 4 74c 2: 13 s. 4 d. forfeiture.

2 The raifing fulling rowing or shearing the Lifts and fides of Clothes, and Kerfies, better then the middle, and not doing all alike well. thirteen shillings four pence. Idem, 4 Fac.

3 The cutting and taking away of Wool from the back-fides of Clothes, and Kerfies, with knives or such like devices, it being only to be shorn with a pair of sheares, thirteen shillings four pence, 4 7ac.

The blowing, spowting, or bedewing of Broad-cloth or Kerfies, on the fides and edges near the Lifts, with water or other liquid thing, whereby they may there appear better then in the midft thereof, thirteen shillings four pence.

5 To do fo of purpose to increase the weight. and deceive the buyers or fearchers, fourty shillings. But abatement to be allowed for dref-

fing, &cc. 4 746.2.

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lambs wood, or other deceiveable stuff, 43 Eliz.

10. 21 Iac. 18 into broad woollen cloth, five pounds, no more, to the poor. So to put in any chalk, flower, or starch, fourty shillings, 3 & 4 Ed. 2.

7 But flocks, hair, and yarn made of Lambs wooll, may be put in white flraights made in Devonshire and Cornwall, by the 27 Eliz. 18. and must have a speciall mark, by 4 Jac. 2

8 The making of them less in length, breadth, or weight, then the Statute of 4 Iac. 2 which repealeth 6 Ed. 6 4 & 5 Ph. 6 M. 27. Eliz. 17. 35 Eliz. 7. 10. 11. 3 Iac. 10. as to this point, or

lesse then the seal purporteth, 4 lac. 2

9 If it want weight, or exceed in length, against 4 Iac. the Searchers or Over-seers that find, may certifie it by their seals, and have half the forseiture, by 8 Iac. 2. And by 21 Iac. it is but a third part. If the buyer shall find any default not made known by the Searchers, or Over-seers seal, he may call the Seller, and in his, or some one of his appointments presence, examine the same; and if the default be found, the Buyer shall have one half of the forseiture, by 4 Iac. 2.

Ten shillings every yard over the length. Ten shillings for every pound above two pound wanting weight. If of sull weight and length, and fail in breadth, if it be through the whole cloth, twenty shillings: if half, ten shillings: un-

der half, five shillings.

breadth, and weight, the Over-feers that finde and certifie the default, may recover in the M Chap. 24 Quarter Seffions a third part of it: the other two parts shalbe to the poor of the place where the Cloth is made, to be levied by the Churchwardens and Over-feers, by diffresse and sale of

goods, 21 7ac. 18.

12 The preffing of any cloth but what is to be transported, 3 & 4 Ed. 6. 2. or pressing of cloth with the hot presse, or otherwise then with the cold preffe, 5 & 6 Ed 6.5. loffe of the cloth, or value: or heating of thick boards or plancks, and laying them under and above the cloth in the cold preffe : or putting of thin or feeling boards, or paft-boards made hot in the carries or places of clothes, and then prefently putting the same into a cold presse: Or any other preffing with any heat of fire, or

the like deceiffull means, 21 Jac. 18. a lower barre, pinne, ring, or other Engine, whereby any rough and unwrought Woollen cloth made to be fold, shall be stretched in breadth; or the having, keeping, or using of any wrench, ring-head, growme, rope, or other Engine for the firetching of any fuch cloth in length, made to be fold, sub pana twenty pounds 43 Eliz. 10. Or fetting of any fuch cloth, made to be fold, upon any fuch Engine to be firetched, or to firetch it more then thus : The whole wrought Woollen Broad cloth, one yard in length, and one half quarter in breadth, and fo the reft, according to 43 Eliz 10 Subpana the Joffe of the cloth. So he that shall fell the cloth fo firetched; The fame, See 21 Jac. 10. and being transported it may be returned, by 43El 10. 7. The boyling of Wools with Gawls Rindes, Barks

Barks of trees, or Saw-duft, fub pana the losse of Chap. 24 the Wool, 5 & 6 Ed. 6 6.

14 The dying with Logwood, Woad, or other such like stuff, against 36 Eliz. 11. See

Logwood.

and an inch, fix shillings eight pence every yard, 3 & 4 Ed. 6.2.

16 For deceit in falle colours put upon Cloth, or Wool, and in using of Iron cards, or

Pickards. See in the Charge fol. 17.

17 It being wet or shrunk more then a yard and a half in length, and a quarter in breadth, of a whole cloth, or sic pro rata in other pieces, it is suspicious, and not to be sold by the Glothier sub pana twenty shillings, 3 & 4 Ed. 6.2.

18 The Clothier must not sell his Cloth till he hath paid or agreed with the Alneger for his fee, sub pana twenty shillings, \$ & 6 Ed. 6.6. and he must seal it, for it cannot be transported till then, sub pana losse of the cloth, or the value, 5 & 6 Ed. 6.5.

19 The werking of it by Gigmil, five pounds,

5 & 6 Ed. 6. 22.

20 The Alneger must seal it, and be paid his see ere it be put to sale, 27 H. 8. 12. 5 & 6 Ed. 6.6.

21 All Customes and duties must be paid to

the Keepers of the Liberties.

every place. See 2& 4 Ed. 6: 39 Eliz. 20. 43 How discoss Eliz. 10. who may as oft as they think fit, enter vered and into any houses to see how their cloth is made, remedied, and must every quarter, sub pana ten pound, 3 Ed. 6. 2.7 Iac. 16. 21 Iac. 18. of what weight and

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measure it is,&c. And by their seals affixed de-

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Cha.25

Oversieers.

Searchers.

clare and certifie that which is good, and fet down both their names on the feal, 21, lac. 18. and with the word Faulty upon that which is bad. And the Overseer is to put his two names in the feal he doth affix, 21. Iac. 6.2. He that doth interrupt them in the doing of their duty, forfeits twenty pounds, 3 & 4 Ed. 6. 39. Eliz. 20. If the Over-feer refuse, he forfeits forty shillings, 4 & 4 Ed. 6. upon information two Justices of Peace may punish the deceits used in the marking of cloth, 21 Iac. 18. 4. Searchers must be appointed in Corporations, Cities, Burroughes, and Port-Towns, who may do likewise as Over-seers, for the clothes that shall be dressed, died, or pressed in such places, 21 Iac. 18. And the Cloth woven there must be searched ere it be sold, 4 & 5. Ph. & M. 5. 21. lac. 18. They must fet their seals to diftinguifh good and bad cloth. If the fearcher refuse without good cause, he loseth five pounds, 5. & 6 Ed 6.5. Yet that which hath been fearched. viewed, weighed, and fealed already by the Overfeers of Cloth, lawfully authorized, in any place, may not again be viewed, fearched, or weighed, by another Officer or person. 4. Iac. 2: 21. lac. 18.42. Eliz. 10. sub pæna five pounds to the party grieved, 3. Isc. 17. But he that buyeth it may fearch it. 5. The Clothier to every cloth he makes, must set his Seal of Lead, declaring the just length thereof to be tried by, and as it will be in the water. 3. & 4. Ed. 6.2. 39. Eliz.20. If the Merchant transport it before this be done he loseth it or the value of it, 5.& 6. Ed. 6.6. and mark it with the letter E. and M.4. 82 5.

& 5. Ph.& M. (3 Jac. 17.) crowned, wrought in Chap.25 the cloth, sub pana twenty shillings, 3 & 4. Ed. 6. and with his own mark, 27. H.8.12.5.H 8. 2. The Searchers of great Townes must also fet to their Seals of Lead, with the Arms and name of the Town to every Cloth. And if they finde it faulty, they must put another Seal of Lead with the letter F. into it, at both ends of the Clothand another mark onthe Lift against the place where the fault is, sub pona five pounds to the chief Officer of the place, 5 & 6. Ed. 6.5. And he that shall take off, or counterfeit either of these Seals, the first offence ten pounds; the fecond, Pillory and loffe of goods and chattels, 5. Ed. 6.6. 6. None may fell cloth in groffe, or by retail, so dreffed, died, or preffed in such City, &c. except the seal of the City be fixed to both ends of the cloth, or that their feal remain at the last end of the cloth that shall be fold, 5 & 6. Ed. 6.5. 7. The Merchant, Draper, and others, that buy cloth by retail, though it be duly sealed, may not sell it till they have wet and tried it : And if they find any fault in it, they are to present it to the next Justice of Peace, sub pana double the value of it, 5 & 6. Ed. 6.6. And they are to have a third part of it, and yet shall have their mony again of him that fold it, 5 Ed. 6.6. And if any fuch cloth after such fearthing in the Country, shall be found faulty in any thing not yet certified, and appearing by the Seals of the Over-feers and Searchers, to him that buyeth it, he may caused to be tried, giving notice to the seller to be there if he will; and being found, the buyer shall have the moity of the forseitures. 8. And M 3

## of making of Officers.

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8. And the Clothier that loseth by deceitfull cloth by the Dyer, or Dreffers &c. fault, may have his remedy against them, 5. & 6. Ed. 6.5. If a cloth, by the default of Workmen, prove purfie, cockly, bawdy, fwally, onrowy, by Warp or Woofe, or shall be evil burled or wafted in the Mill, or by the default of some work men be full of holes, and it be offered to fale, not having a feal of lead upon it with the word feely upon it; the cloth or value thereof is forfeit.4 to 5. Ph. to M.5.

9. If the cloth after triall by the buyer before the feller, if he will be there, having notice, otherwise in his absence, prove lesse in measure then the Owners feal speaketh, he lofeth fix fbillings eight pence, for every yard it is lesse, and must pay the value of the wanting

cloth, by 4. Fac, 2.

For the Cloth in Tork fbire, See 39.Eli.20.

21. Fac. 18.

For Mildernix or Poul David. See 1. 746.24.

#### CHAP. XXV.

Sea. I. and duty of the justices of Peace out of quarter Seffions herein. Overfeers of Cleth. Recogni.

zance.

The power Of the making and ordering of Officers.

Wo Juffices of the Peace may and must once a year call before them, and appoint two or more Searchers or Overfeers of Woollen Cloth, within every place out of a Corporation, where Gloth is made or fold, for a year or leffe time, as they please, and bind them by Oath and Bond of forty pounds to do their duty:

duty: and he that refuseth the Office, being Cha.25 appointed by the Justices of Peace, not rendring a reasonable excuse, loseth forty shillings, whereof the one half to the Justices of Peace requiring him; See more in Cloth.3.674.

Ed. 6. 2. And he is to be in the Sherisses custody till he pay it, or secure the payment of it.

Two or more Justices of Peace, Quorum unus, Sell.2. dwelling in or near the place, must yearly with Over-seers in a month of Easter, by Warrant under their of the poor. hands and seals appoint two or more substantiall Housholders of every Parish to be Over-seers of Oversers, the poor, and to joyn with the Church wardens therein, sub pana sive pounds; and he that re-Warrant, suseth, or is otherwise saulty in doing his office, forseits twenty shillings; which these two Justices upon proof, by consession, or witnesses, may levy by distresse and sale of goods. And in default of distresse, they may commit them to Commits Gaol without bail till they pay it. 43. Eliz. 2. See ment.

The making, removing, and swearing of high Sea. 3. Constables, Petit Constables, and Tithing men, Constables, may be by the Justices of Peace. The High Constable is most properly to be made at the Quarter Sessions, or by the more part of the Justices of that Division. But he and the Petit Constable may be made, sworn, and removed by any one Justice of Peace, especially if it be in case of necessity that an able Officer is wanting, the old being dead, or removed, or an insufficient one chosen, and there being a great time to the Leet and Sessions, wherein this defect may be supplied. Yet some say, If he be

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Leet.

chosen in a Leet, there must be two Justices of Peace or to remove him. But it was resolved by all the Judges, tempore Caroli. That if the Leet choose an unfit man, the Justices of Peace may remove him, and put in one that is fit. And the Lord also may lose his Leet by this desect. The Justice then that doth so, must be sure he hat good cause so to do, and then he may do it, Dalt. J.P.f. 16. But the most proper remedy to remove an Officer unduly elected, is by complaint at the Affizes or Quarter Sessions. And if any such Officer required by a Justice of Peace to serve, resule to take his oath, the Justice of Peace may bind him over to the Assizes or Sessions, or may indict, sine, and imprison him.

Bind over.

Indichment.

One Juffice of peace may require Conftables to present such as lodge strangers in any upland Town, for whom they will not answer,

Winch. 13. Ed. 1.

There must be two Justices of Peace, Quorum unus, to punish a Constable for his neglect in his Office in the punishment of Rogues. and to levie the ten shillings forseiture on 1. Jac 7. 39. Eliz. 4. So to fine him under forty shillings, if he do not appear and do his duty at the pety Sessions about Rogues. 7. Jac. 4. So likewise to call to account Bailiss and head Constables on the complaint of Church wardens, for the money received by them on Estreats, for the sines of offenders about high-wayes, and by imprisonment till payment, to compell them to pay it in to the Church-wardens. 3. M. 8.5. Eliz 12.

the

Any two Justices of Peace, Quorum unus, may according to their discretion punish by Fine

Sect. 3.

Oversfeers
of Weights
and Meas
fure.

Fine,

the defaults of Officers, that do not twice a Chap. 25 year view Weights and Measures, and destroy the defective ones. II. H. 4.4. Dalt. 7. P. Chap. 65.

Any one Justice of Peace may put in Over- Sea. 4. feers of Rivers, and furvey them. 27. R.2.9.

The Treasurers of the County stock, Governour of Bride-well, and collectors for the Prifoners in the common Gaol must be chosen at the of the Count Quarter Sessions, and cannot be chosen else- ty stock. where. But any two Juffices of peace may give Governour Warrant to levie by fale of Goods the Fine im of Brides posed by the Justices of Peace at Sessions on the Collector Treasurers of the county stock for their neglect for the com. or refufall.

Any one Justice of peace may punish the de- Warrant, faults of Sheriffs in not returning fufficient Ju- Sea. 6. rors that have forty shillings a year Land, about Return of a forcible Entry. And this it feems he may do a fury. by Indicament at any Sessions. 8. H. 6.9. Dalt. 7.

P.fol 3.93.

So also he may upon complaint against a Abuse in Sheriff, of Abuses in his County Court, viz. that the County he entreth a plaint in the name of a man who is Court, not present himself, nor by his Attourney. 2. That pledges sufficient are not put in by the Plaintiff. 3. That the plaintiff doth enter more then one plaint for one Cause. 4. That more plaints are entred then the plaintiff defired. 5. Or that his Bailiff do not warn Defendants. he may examine the Sheriff, or any of his Officers, and if he find it by their confession, or otherwife, he must certifie it within a quarter of a year into the Exchequer. 11.H.7.15. And any one Justice may examine the Collectors of the Sheriffs

Over-feers of Rivers. mon Gaol.

of making of Officers. 170

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Sheriffs Amercements, if they have collected more then is within their Estreats, and if they

find it certifie it to the Exchequer.

But there must be two Quorum unus, to overlook the Sheriffs Books and Amercements, and to feal the Indentures of his Estreats, being appointed thereunto by the Cuftos Rotulorum, or eldest of the Quorum 27. Eliz 12. And they are to swear the Bailiffs, Collectors, &c. that they shall take no money more then is contained by their Estreats sealed by the Justices. 27. El. 12.

11. H.7.15. Dals. 7. P. Chap. 51.

If a Sheriffe, or other Officer that hath the breaking of Writs, fend his warrant to fummon or arrest a man to appear in the Sessions, without having an Originall to warrant it, It feem the Justices may send for him, and the Procurers hereof, and examine the matter, and if proved by witnesses, or confessed, they may send them to Gaol without Bail, till they pay the party grieved ten pounds, and his costs, &c. 43 Eliz.7.

Commits ment.

Seet. 7.

Titles.

Two Justices may appoint such as they think searchers of to be fit to be fearchers and Examiners of the Default in Tile-making 17. Ed. 4.4. Dalt. I. P. fol. 174. And these many present Defaults upon

their own view. Sed quare of this.

voe line Alter M all name

For the making and ordering of Churchwardens, Surveyors of High-wayes and other Officers, fee in their proper Titles.

CHAP.

#### CHAP. XXVI.

Of arrest, and Imprisonment, Bail, and Prisons.

Or the better understanding of so much of What an the Law in this point as concerneth Justi- Arrest or ces of peace, these things are to be known. Imprisons 1. An Arreft is the first Act of Imprisonment, ment is when one is first restrained of Liberty, and Imprisonment is the continuance thereof, when a man (where-ever he be) is so restrained that he cannot go whither and when he will, as at other times. And to lay hands on a man, and hold him, keep him in a house, lock him in a room, tie him to a Post or Tree, put him in prison or Stocks, or the like; or if a known Officer do do but say, I arrest you in the Lord Protestors name; all these are Imprisonments. But to require another to stand, or stay, or say, He will arrest, or doth intend to arrest him; but doth not lay hands upon him; or to require him to appear before a magistrate, or the like; these are no arrefts nor Imprisonments. Cook. 9.66. Sea. 2. 69.

For the Answer of all the questions, that concern this matter of arrest observe these things.

I. Any man that hath authority by Law to done and arrest and imprison another may do it. As a for what Justice of peace, Sheriff, Constable; and in some cases, every man; as in the apprehending of Felons, keeping the Peace, &c.

Who may do it, And to whom it may be cause, and when, and where.

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Minister.

2. Any man or woman, (except Barons, and Peers) may be arrested and imprisoned.

3. One that may arrest or imprison another in most cases at any time, either in the day, or in the night, and upon any day of the week. But if a Minister be arrested on the Lords day, he that doth arrest him must take heed he do it not either at Church, or in his going to, or coming from it, for that may be punished. Cook. 9.65. I. R. 2. 15. So also the arrest of any other man now, unlesse it be in some speciall cases, is unlawfull on the Lords day. See Chap. 4.

4. It may be done in any place that is not priviledged from Arrefts, (as some places are) as in the house, field, and it may be done in a Church, but then care must be had that no di-

sturbance be made to the Congregation.

5. These persons, and for these Offences, and for the time, and in the places hereafter named, are to be imprisoned, and that without Bail, o-

therwise then is set down, viz.

r. Ale-honse-keepers without License, and prohibited by two Juffices of peace, that notwithstanding do sell, may be committed to any prison for three dayes, and untill they enter into recognizance with two fureties, not to do fo again. And for the second offence, to the house of correction for one month; and for every of fence after, till they be discharged by Quarter Sessions. But before they can be arrested they must be legally convicted by inditement.

Such Ale-house-keepers as offend by suffering tipling, or in the Assize, and have not sufficient distresse, may be imprisoned till payment, but this must be after a legall conviction

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Bail.

Ale house keepers.

Commits ment. Recognizance. Houte of Correction.

Commits ment.

and by a legall Warrant, and fo reft.

Cha. 25

Baffard.

2. Such persons as go or ride armed, may be Ride armed. Imprisoned till they pay their fine for it, after due Correction.

3. He that being appointed an Over-seer over-seers of cloth, refuseth, is to be imprisoned tillhe of cloth, pay five pounds, after due conviction thereof.

4. Such as make deceiveable cloth, and have Deceiveable no distresse to answer the forfeiture, are to clothbe imprisoned till payment, after due conviction.

5. The mother or reputed father of a Bastard are to be imprisoned till they perform the Juflices order, or give bond to do it. And she is to be kept in the house of correction one year: And for the second offence till she give bond and furety of the good behaviour, and not to offend again.

6. Surveyers and collectors for bridges, and Supravifors for Gaols, and fuch as receive the mony forfeit of the highs for offences about High-wayes, that refuse to wayes, &c. account, are to be imprisoned till they do it,

after conviction.

7. Constables and Church-wardens that levy Account. not the forfeitures upon Ale-house-keepers Officer, for that offend, and have no diffresse, are to be im\_ ueglects. prisoned till they pay forty shillings. The Constable that doth not levy the twenty shillings for keeping an unlicensed Ale-house, is to be imprisoned till he do it, or pay forty shillings. For not whipping a Trespasser in Orchards, Woods, &c. according to his Warrant, he is to be imprisoned till he cause it to be

Child.

Of Arrest, Imprisonment,

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done. But all these must be after due con-

Logwoo!

8. Dyers that tife Logwood, are to be imprifoned till they pay the forfeiture, after conviction.

Such as refule to be bound. 9 Such as, being required by lawfull authority, to put in surery for the Peace, good behaviour, or to appear at Sessions, &c. and resuse, are to be imprisoned till they do it. And in most cases they may not be delivered by the death of the party at whose suit it was done, without the help of the Sessions or Gaol-delivery, where a Justice hath power by any Statute to bind over any man, or cause him to do any such like thing which he resuseth, being required by him: in this case it seems he may send him to Gaol till he do it. Dalt 7. P. 296.

Commits ment,

Destroyers of fills, Fowl, &c.

To Destroyers of Ponds, &c. after conviction are to be imprisoned three moneths, and after till they finde sureties for their good behaviour for seven yeers.

Destroyers of, and such as shoot at Feasants, &c. after conviction are to be imprisoned three moneths, unlesse they pay twenty shillings a Fowl. So for Hares.

Hunring.

Those that do hunt with Grey-hounds, or Ferrets, are to be imprisoned a year, being first convided.

11 Such as destroy the game in Parks, are to be imprisoned three years being convicted.

Hawking.

12 Such as hawk between the first of July and the 31 of August, being duly convicted, are to be imprisoned a moneth, unlesse they pay forty shillings a time, and twenty shillings a Partridge.

13 Eaters

13 Eater of flesh in Lent, being convided, Chap. 26 if they pay not twenty shillings, are to be imprisoned a moneth.

of it, are to be imprisoned till they pay ten Guns.

pounds.

15 Offenders in Riots, Routs, unlawfull Af-Rioters, femblies, forcible Entries and Detainer, being convict, are to be imprisoned till they pay their fine, or find sureties to do it.

of Record generally, a man shall bee imprifoned till he pay it, or secure it. Broo. Impr.

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17 A man may be imprisoned for breach of Breach of the Peace: For if there be any breach of the peace, or apparant likelihood thereof by any persons, or they affault the Officer himself, he may set them by the heels, or put them in ward for a time; but after it is past, he can do nothing to them, 12 H.7.

18 So if two be fighting, any one may take one of them, and lock him up for a time, till the heat be past: but if they be quarrelling onely, he cannot do it, 5 H. 7. 4. unlesse he be

an Officer.

19 A man that is mad and furious, may bee Mad men.

imprisoned to prevent mischief.

20 Forestallers, Regrators, and Ingrossers, Forestallers, being convicted, are to be imprisoned two moneths.

21 Aliens that convey away Bowes, being Conveyers convict, may be imprisoned till they be fined of Bowes, in Selfions, and give bond to pay it, 35 H.

8. 9.

22 Forgers

### Of Arrest, Imprisonment,

Chap. 26 Forgers of Deeds. Unlawfull game. 22 Forgers of Deeds, if they concern Freehold, &c. being convicted are to be imprisoned for their lives, otherwise but for a year.

23 Such as keep places of, or play at unlawfull games, being convict thereof, are to be imprisoned til they give surety no more to offend. And if it be upon his own view, in that case there needs no other conviction, where the Statutes give him power upon his own view to do it.

Hoftler.

24 Hoftlers that take excessively for horsemeat, or make horse bread against 21 Jac. 21. or make it not of the due assize, for the second offence are to be imprisoned one moneth after conviction of the offence.

Labourer.

25 Labourers and Artificers that go from their work ere it be finished, are to be imprisoned a moneth, after conviction of the offence.

Departure out of fers vice. 26 Such as without allowance of a Justice of Peace, depart before the terme end or at their terme end, without a quarters warning before two witnesses, are so also upon conviction to be imprisoned.

Refuser, to

fule to serve on request, or have promised to serve and do not serve accordingly: all these are to be imprisoned till they be bound to the party to serve according to the Statute: And such as refuse to be bound apprentices, are to be committed till they do consorme. But all this after due conviction.

Pootovers

28 The Over-feers of the poor that refuse to account, or pay the money in their hands, or that pay not the twenty shillings for any default, may be imprisoned till they do it, after due conviction.

29 The Grandfather, Father, &c. refufing to Chap. 26 obey the Justices order, may in case of lack of Order of distresse be imprisoned till he pay the twenty suffices. shillings a moneth forfeiture.

30 Such as refuse to pay their rates for the Rates, Kings Bench and Marshalley, or for the County stock, are after the conviction, to be impri-

foned till they do it.

Such as refuse to pay their rates for the places that have the plague, if they have no distresse, are to be imprisoned till they pay it. So for the rates of the poor. But they must be duly convicted.

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32 Such as come not to Church every Lords Refusers to day, and have no diffresse to pay their forfei-cometo ture, are to be imprisoned till payment. So for the forfeiture for the moneths absence, 23 El. T. The Law is altered in this now, and no man to be imprisoned for not coming to Church.

33 Incorrigible Rogues are to be imprisoned Rogues. in Gaol or in Bridewell, till the next Quarter Seffions, but they must be legally committed.

34 Such as diffurb Preachers, hinder the ar. Diffurbing rest of such persons, or rescue them from arrest, the Preacher are after conviction, to be imprisoned three moneths, and till the next Seffions.

35 Perjured persons, after conviction, are to Perjured be imprisoned fix moneths. And the promoters perions, thereof not having to pay the penalty, one

year. 36 False prophesiers are for the first offence Prophesiers to be imprisoned one year, and for the second, for life, both after due conviction.

37 Such as disobey the Justices order for re- Makerse straint of Malting, after conviction, may be imprisoned

Of Arrest, Imprisonment,

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Chap. 26 imprisoned three dayes, and after till he give bonds of forty pounds to do it.

38 And none of these are bailable before the time, or otherwise then is before set down.

Difobedis ons orders.

39 Such as difobey an order of Seffions, may ence to Sessi- be imprisoned for it; and it feems, may not be bailed by any Justice of the Sessions, Sed quere. For fuch as are arrested on the Sessions process, are bailable by two Juffices, Quorum unus.

Trespassers in Parks may be arrested there.

So he that hath a Gun may be arrefted.

Suspition of Felony,

40 For any Treason or Felony that a man hath done, or upon some cause a man is suspected to have done, he may be arrested and imprisoned, and that by any man that hath cause to suspect him. For any man may arrest another that is either indicted of Felony, out-lawed for Felony,&c. or that he knoweth, or feeth to have committed a Felony; or after a Felony is done, if he have cause to suspect him. And so may any man arrest him that is apparantly going about to commit a felony, or him that hath dangeroufly hurt another in an affray, or nightwalkers that are suspicious. But except it be in fuch like case, and for prevention in some cases. as where two are about to be incontinent, to break the peace, or the like, a man is not to be arrested but upon Process or warrant from some Court of Record, and by authority from Justices of Record, and after conviction by a Jury, or otherwife. But regularly none may commit another to prison, but he that is a Judge of Record, 9 Ed. 4. 26. 20 Ed. 4. 4, 6. 11 Ed. 4. 4. 3 H.7.1. Lamb. 9.P. 188, 189.

41 Men may be imprisoned for many other caufess

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Nights wilkers.

Incontinen cy.

causes; but the Conusance thereof doth not at Chap. 26 all belong to the Justices of Peace.

42 A murtherer quit before the year and day; Murtherer, is to be fent to prilon, or to go upon Bail, till Bail.

the year and day be past. See 3 H.7.1.

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These persons, and for these offences follow- Sell, 2. ing, are not to be Bailed at all. Such as are in Bail. prison for Treason, or the death of a man. But Who is bais some think a man is bailable, in case of man lable, and fome think a man is bailable, in case of man- how. flaughter, and then much more in cases of leffe offence, as Se defendende, dec Such as ate in prison on Executions, Cap. ut legat. Excumminicationis, On Processe of rebellion out of Chancery, Or any Processe on an Action personall. Trespasser in the Forrest, Vagabonds, or by fome special commandment from some special Justices, for special cause, felonious burners of houses, 3 Ed.1.19. 23 H. 6.11. 5 Ed. 2.8, 2 H. 5.2 He that hath abjured the Realm, he that breaketh prison, hee that is an Approver, or Appellor, one appealed by an Approver : but if hee be no common Thief, nor defamed, hee may be bailed after the death of the Appro-They that confpire to indict another for Felony, they that are convict of Rediffeifin, Conjurers, the Felon that confesseth the Felony, is taken in the manner, or known to have done the felony or is a known and defamed Felonion is attainted for the felony, especially if it be the killing of a man, and the Mittinous expresse the Commitment to be for felony confessed, Cook 4 part Inft 178. He that is accessary to a felony after the Principal is attainted, except be plead not guilty, or other Plea. But before he is atainted, contra, especially if he be of good fame-

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Cha.26

He that is convict of Felony, prayeth Clergy, and is reprieved. For when a man is bailed, he should be bailed before it appear whether he be guilty or not. Not in case of Maim, when it is

great.

But these persons offending in these cases, may be bailed, (viz.) fuch an one as doth commitpetit larceny after he is indicted, if this be the first offence. So also a man may be bailed if the frealing be above twelve pence. So the principal in Robbery or Burglary. So he that is taken upon a light fuspicion, charged with receit of theeves, or other felons, or being accessary to felony, or with a trespass that toucheth not life or member if it be not prohibited by some latter Statute. So he that being indicted of Man-flaughter, is acquitted; he that is indicted of murder or Man-Anoghter at the Kings fuir, and quit, is bailable during the year. Such as are imprisoned by proceffe out of Sessions, upon penall Laws not forbidding bail. But if he be on an indicament of trepasshe may be bailed by one Justice of peace. So fuch as are charged with Homicides, which are not Felony. All these may be bailed.

Self. 4.
The power and duty of the Juffices of Peace herein out of Selsions.
About imprisonment.

Peace.

r. In most of the cases before, the Justices of peace have the power of imprisonment, and by their Authority it may be done. And their Warrant is sufficient to enable them that do it.

2. In all cases where an inferiour Officer of the peace may ex officio, or another man that is no Officer, may imprison a man for any matter of the peace, a Justice of peace may much more imprison him.

3. If the fureties doubt of the escape of the

prisoner bailed, a Justice of Peace upon prayer Cha.26 may discharge the sureties, and commit the party committo prison; or he may cause the party bailed to ment, find better fureties.

4. It is thought in all cases, that where the Ju- commit flice of peace hath power to bind over a man, nent or to cause him to do somthing, and he be in refuser to presence and refuse it, that he may imprison over. him till he do it. But this must be warily taken,

5 Where the Justice of peace doth imprison Sell. 5: by the power of any Statute, he must take heed About the he do pursue his authority by the Statute.

9. The Justices of the Peace may in no very of pris case deliver and discharge any that are accused Discharge. of Felony before them, though the case appear never so clear; but they are to binde over the witnesses to prosecute and give evidence, and commit the party suspected to prifon, or take bail of them to appear at the Seffions or Affifes. And they must take heed how they bail Felons; For some have held that they are not bailable but at the Affises: And to bail one not bailable, is a negligent efcape.

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7. But it is not doubted, but that they may bail these offenders in these cases following, (viz.) One Justice may bail him that is arrested by a Seffions Processe upon an indictment of an ordinary trespasse. And he may grant a Supersedeas. So if any man be imprisoned for a leffer offence than Felony, or for the suspicion of such offence, one Justice of peace may bail him except it be forbidden by any special Law, 3.H.7. 3.Dalt. J.P.in c. 12. As he that blasphemeth the Sacrament of the Lords Supper, cannot be N 3 bailed

bail or delis

Efcape.

Cha. 16 bailed to the next Session, by leffe than three

Juffices of peace, I Ed.6.1.

8. But there must be two Justices, Quorum unus, to bail a man that is charged with Felony: And they two must be together at the time of the bailment, and before they bail him. take his examination in writing, and this with the bail and recognizances for wirneffes, they must certifie to the next Gaol-delivery, I.R. 3. 3. 3 H.7.3. 1 & 2. M.13.

And though the offense appear to be Se defendendo, or the like; yet it is not fafe for one

alone to do it.

9. The Juflice of peace is not to bail, but in cases which he may hear and determine. I & 2. P. C. M.c. 13.

10. When he doth bail, especially if it be for Felony, he is to fee he have good bail: It is

requifire they be two Subfidy men.

He that is under arrest for Felony, is a prifoner as well without the prison, as in the Stocks, in the high-way, or in the possession of him that arrested him, or hath the keeping of him.

Howbeit the Sheriffe or Gaoler may imprison in their own Houses, or common Gaol, at their pleasure; yet the proper prison for the Justice of peace is the common Gaol. But he may for the fafe keeping of a prisoner a little while till they may have help to carry him to Gaol, commit him to the Stocks, &c. But the Juffices of peace may not make their own or others houses a constant prison. Yet in some cases where the Law doth appoint for some special offence, a speciall prison, as the House of correction, there they must be fent to that prison. And in some cales

Examinatis Certificatis on,

Sea. 6. Prisoner, and prilon,

cases the Justice may commit to safe custody ac- Cha.26 cording to his discretion. And if the Gaoler re- Gaoler refuse the prisoner, he may be kept any where till fuse the pris they that keep him can be delivered of him. foner.

Dals J.P.ch. 118.5 H. 4.10. Cook 9.119.

If one offend in one county, and flie into another, and he be taken there, he must be imprisoned where he is taken. But if he get into that County by escape from the Officer, he may in a fresh pursuit take him and bring him back

to his own County.

If the prisoner committed by a Justice of sea. 7. Peace for any offence, be of any ability, he is to Charge of a bear his own and their charge that wait upon priloner fent him. And if he refuse, any one Justice of peace to Gaol. may give Warrant to the Constable to distraine his goods, and after appreisment by four of the parish, to fell them, rendring the overplus. 3. Iac. 10.12.

In this Gaol he is to be kept close and fure; and for this, if need be, he may have Irons pur upon him. And if the Gaoler do not keep him

fo,he may be punished.

Where a Statute doth appoint a fet time of Sea. 8. the taking and keeping of the offender, there When and that time shall be observed; but where no time how he shall is fet, it shall be presently, and cannot be after-be imprisos wards, as in the case of Force. When it appointeth an imprisonment, and faith not how long, it thall be during the pleasure of the Court. If it be during the pleasure of the Judge, it seems the prisoner cannot be delivered till he declare his pleasure. But if imprisonment be by Justice of peace, in all cases (except for the peace, Good behaviour, Felony or higher offences ) it is but

Rates and Assessments.

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Cha.27

till the offender hath made his fine, which when he hath paid, or given fecurity for, he is to be discharged.

### CHAP. XXVII.

### Of Rates and Assessments.

Ouching this point, these things must be known. I. In making of Rares, it is fit before hand to give publick notice. This in Church Rates was necessary before the last Ordinance was made; then if the Parishioners will come, they may; if not, the Officers may make them themselves. 2 The Rates, if they be Parish rates, must not go further then the parish. 3. For the most part, and in most eases, all forts of men, and all kind of Estates, and all kind of Land are to be rated. 4. For the Rates of the poor, (by the Rules whereof most other rates are made ) r. Every Inhabitant, Parson, Vicar, and other, and every occupier of houses, lands, Tithes impropriate, Propriations of Tithes, Cole-mines, and faleable under-woods are to be In which these things are to be heeded. r. A man may be rated to the poor though he have no land in the Parish. 2. By saleable underwoods are not meant Timer, but any Wood for fire, albeit it be not cut in thirty or forty years, (as the Beech wood of many Countries) 2 Woods are to be proportioned to a yearly benefit, fo that if a man have a hundred acres in a Parish, it must be cast what it will make him

Poor.

to continue, and according to that he must be Chap.27 rated. So Mines are to be confidered, what profit clearly they do bring in clearly. thought fit in rating Impropriations where the Parson hath the Tenth of the Parish, that he bear the tenth of the Rate. 5 Ancient Demesne Land, Guildable, and Copie hold land, are all to be charged. 6 Mens Lands are first to be rated. And then some respect is to be had, ( but with much caution ) to mens other visible ability of flock, of cattel, corn, or grain upon their Land, or of Goods, as housholdstuffe, cloth, or other Merchandizes, Malt, or the like in his house: For that a man that hath a house bravely furnished, & a hundred pounds to it, fully stocked, and hath a thousand pounds in Cloth, Malt, or the like in his hands, to pay no more than him that hath a house with bare wals, and a hundred pounds, with scarce any stock upon it, seems most unreasonable. But for mens invisible Eflates of money,&c. in respect of the uncertainty of it, it feems no Rate may be fet upon it, for fo was it Refolved by the Judges, 5 Car. Yet if a man be known to have an Annuity of one hundred pounds a year, or one thousand pounds lying in fuch a mans hands, for which he receives Interest, and it may be in all his Estate, let it be well confidered why in so clear a Case he should not be rated proportionably. And when a man is rated for flock or goods, it feemeth reasonable to set it after the proportion of Lands, viz. that one 100 l. in flock be rated after 5 or 6 ls. a year. 4 Every mans Land must be rated to all Rates, according to the quality and . yearly value, or by the pound, and not accord-

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Chap. 27 ing to the quantity and content, as the Yard, half Yard, or the like. 5 He that doth occupy Lands in his own hands, lying in severall Parishes, must be charged in every parish for his Land there, onely proportionally and no more. Butfor all a mans personal Estate, it seems reafonable he should be charged where his person is. 6 The Farmer is to be charged for his Land he hath in Lease, not the Leaser. The Lord or Leafer is not to be charged for his rent he receiveth for his Land, because the Tenant is chargeable for the whole Land. 7 In the making of the Rate, respect is to be had not onely to a mans ability, but also to the advantage he hath by the thing for which the Rate is made. 8 In some Cases a man may be rated beyond his ability, as where one brings a charge upon a Parish, or the like, 6 In all cases of Taxes for the convoy of Rogues, County-flock, Common Gaol, House of Correction, and other things where the Law doth give no direction, it is best to follow the Rate for the Poor, and the custom of the place. And so have the Judges given direction Refol. Judges, 5 Car. Seal. 18, 19. 10. The Parson having the full Tenth of the place, may be rated to a tenth part to the poor,

Refol Judges 1633. 32.

For the doing of works for the Common-wealth, as amending of Churches, High-wayes, Bridges, Sea-banks, or the like, the major part of a parish agreeing by a by-Law, may binde the rest disagreeing. It Any Rate by an universall agreement of parishioners will binde them, and so they may appoint one to collect it, and distrain for it, Dal. J. P. Gap. 52,53. Cook 5 57, 67.

10.139.

Churches, &c.,

10.139.9.104. 12 Where a Statute appoints a Chap. 27 Rate to be fet upon every Inhabitant, it must be fo fet upon every person, that every one may bear his own burden, and not upon the parish, &c. fo that one may be distrained for the rest,

Cook 2 Part of his Inft. 704.

If the Parishioners of any parish, Constables, Sea. 2. and Church-wardens cannot agree in the Diffri- The power bution of the Rates of the Justices of peace, and duty of made at Quarter Sellions for the Kings Bench, Peace herein Marshalley, Hospitals, losses by fire, &c. then any out of Sessis one luftice of peace living in or near the parish, ons. may fet the rate. And if in this case they neglect Warrant. to levy it, any one Justice of peace may require it to be levied by diffress and sale of goods. And in default of diffresse, he may send the party to Commitprison till he pay it, 43 Eliz.2.

2 The like, ( fave onely commitment ) may one Justice of peace do, in case of default by the Parishioners, Church-wardens, &co for the rate fer by the Juffices of peace in Quarter Seffions, for the relief of maimed Souldiers and Mari-

ners, on 43 Eliz. 3.

3 There must be two Justices of peace (and any two may do it ) to make a rate upon the place, and by Warrant under their hands and feals, to cause it to be levied by diffresse and fale of goods, or by imprisonment in case of lack of diffresse, to relieve them that are fick of, or flue up for the plague. And for this pur- Plague. pole, upon a certificate of two head Officers of the place (if any be there) to two Justices of peace near the place, otherwife without a certificate to rate all places within five miles, and to cause is to be levied as before, to be disposed

Chap.27

by the same Officers; or where none such are; by the Juftices of Peace. And to fine in ten shillings the Officer that is negligent, I Jac. 21. 21 Fac. 28.

Poor.

There must be two, Quorum unus, to rate other parishes in the Hundred for relief of the places that are not able to maintain their poor. 43 Eliz. 2. So also there must be to tax the Hundred for relief of poor Souldiers and Mariners that come from Sea, to fet them on work. and to maintain them if they cannot have work where they dwell. And this they may do ac-

cording to their diferetion, 39 Eliz. 17.

Robbery.

5 So likewife there must be two fuch luftices in or near the Hundred charged ( where the Robbery was done, and where neglect of purfuit is (for those two Hundreds must bear it ) to rate the Hundreds for the raifing of money loft by a Robbery, when it is levied of one or more of the Hundreds, which they are to do according to their discretion. And this is to be proportioned by the conflables of every place, and levied by them, ex officio, by diffresse and sale of goods, 27 Eliz.13. and the money delivered to a Justice of peace, who must pay it to him that hath right to it.

Recwers.

6 The Justices of peace may in their discretion fet down at what rate Beer-brewers, and Ale-brewers shall sell their Barrels, Kilderkins, and Firkins of Beer and Ale. And this rigore juris, it feems may be done out of Selfions. But it is best to do it there, 23 H.8.4.

Bridges.

7 There must be four, Quorum unus, to make rates for Bridges, Cook 2 part of his Inft. fol.703. 22 H.8.5. and for Chepftow Bridge, by 3 lac. 23. 8 Anv

8 Any one Justice of peace may allow of and Chap.27 confirm under his hand, a rate that is made by Chargesto the Constables and Churchwardens, and two or carry a prithree of a Parish where he is taken, for the conveying to Gaol of a prisoner that is sent to Gaol by a Justice of peace for any offence, and cannot bear his own charge. And by Warrant to the Constable or other Officer, cause the same to be levied by distresse and (after appreisment by sour of the parish) by sale of his goods, rendring to him the over-plus, 2 Jac. 10.

As touching which, these things must bee known: I That in case the prisoner hath no goods or chattels, or none to be sound in the County, there must be a rate made. 2 This rate is to be made indifferently by the Constables and Church-wardens, and two of the inhabitants of the place where he is taken; or in default of the Constables and Church-wardens, by sour of the principal linhabitants of that place.

3 It seems to be compulsory, for the words are, A Rate shall be made; and therefore if they do it not, it seems the suffices may by Warrant require them, 3 Iac. 10.

What they may do about Rates for the poor, See Poor. What they are to do for rates for maimed Souldiers, High-wayes, Churches, and the

like; See in their proper Titles.

#### CHAP. XXVIII.

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### Of Weights and Mcasures.

Sea. 1. IN this, these things must be known: First, There must be but one weight, and one measure, of Corn, Wine, Beer, and Ale and one yard thorow the Realm, and this must be according

the Standard in the Exchequer.

2 The Troy weight (which hath to the pound twelve ounces, or twenty shillings sterling) and Averdepois, which hath fixteen ounces, or 25 shillings sterling to the pound, are both allowed, viz. the Troy weight to weigh Gold, Silver, Pearl, precious frones, Silk, Electuaries, Bread, Wheat, and all manner of Corn and Grain. The Averdepois to weigh all kind of Grocery wares, physicali Drugs, Butter, Cheefe, Flesh, Wax, Pitch, Tarr, Tallow, Wools, Hemp, Flax, Iron, Steel, Lead, and all other Commodities, not before named, especially every thing that beareth the name of Gazbel, and whereof iffueth a refuse or waste. See more in Dalt. 7. P. And to every hundred Averdepois weight is allowed twelve; fo the hundred weight is a hundred and twelve, the half hundred 56. Quart. 28.

3 Bushels, and other Measures of Corn differ according to places, & so do yards or poles, and the custom of the place is regularly to be observed, so that if one buy a number of Bushels, or

poles

poles, it shalbe according to the measure of the Chap. 28 place. The measure of the Corn shall be striked without heap, but the water measure within ship-board, is five pecks striked. 4 Wine is fixteen Gallons and a half to the Rundlet, and thirty and two and a half to the Barrell, fixty three to the Hogshead, a hundred twenty fix to the Pipe, two hundred fifty two to the Tun. Beer nine gallons to the Firkin, eighteen to the Kilderkin, thirty fix to the Barrell : Ale & Beer, eight to the Firkin, fixteen to the Kilderkin, thirty two to the Barrell, fixty three to the Hogshead or Quarter. 5 And Coopers must make their veffels of this measure, or fet a mark upon them where they be otherwise. And the Brewer must fell by these measures, and not otherwise. But Ale and Beer must be sold by one measure, Wine by another, Dalton, Just. P. 184. 6 Four Inches are a handful, twelve a foot, three foot a yard, three foot and nine inches an ell, five yards and a half being eighteen foot and a half, make a pole, rod, or pearch; and yet it is more in fome places, twenty one, in fome twenty four foot. As for the Affize of bread and Bakers, these Rules must be kept, I It must be weighed by Troy weight. 2 It must not be weighed after seven dayes. 3 He must sell thirteen pence for twelve pence to Victuallers that retail. 4 He must have a mark for his bread. 5 Every fort of bread shall be weighed according to the price of the middle fort of Corne. 6 There are three forts of bread to be fold, white, wheaten, and houshold, besides horsebread. 7 The Bakers of Burroughts Ciries and Corporate Towns, shall have fix shillings for the baking

Chap. 28 baking of a Quarter of Wheat, over and above the fecond price of wheat in the Market, others in other places shall have 4's. 8 Strangers bread must weigh fix ounces in the peny Loaf more then Town dwellers. 9 Three horseloaves must be sold for a peny, thirteen to the dozen. and every Loaf must weigh a peny white Loaf. 10 Bakers and Brewers, if they offend, may be amerced; if grievoully or frequently, the Baker may be judged to the Pillory, the Brewer to the Tumbrell, i. Cucking-stool, but this must be in Millards. the Seffions, Dal. 7.P.181. For Millards, thefe Rules are to be kept. 1 The Millards Toll-difh must be according to the Standard. 2 He is to have the twentieth or twenty fourth part, and in Some places more. But he ought to have but one Quart for grinding one Bushell of hard Corne, viz. Wheat, Rie, and Maslin; and if he fetch it, and carry it, two Quarts; and for Malt he is to have but half fo much as for hard corn. 3 Mil-

In the principall Shire town of every County there ought to be in the custody of the chief officers thereof Standards of brasse for weights and measures, according to the great Standard, by which all other measures of the county ought to be regulated. And there is to be but this one Measure and one Weight of the Exchequer thorow the Realm, except for water measure and rent corne. And every measure of corne is to be striked without heap. 16 Gar. 19.

lards ought not to be common buyers of Corn.

2 In every City, Burrough and Market-Town there ought to be a common measure according to that of the principall City, sub para ten pound

pound to the City, five pound to the Burrough, Chap. 28 and forty shillings to the Market Town for their defaults.

3. The Officers of the Shire Town are to feal fuch weights and measures as are offered to

them.

4. None may use in Trading any weights of measures not sealed as before, under pain to forfeit the value of the goods weighed, two years Imprisonment, and quadruple Damages. 12. H.7. 5.11 H.6.8.8. H.6.5. 11. H 6.8. 27 Ed. 3. 10. 13. R. 2.9. Dalt. 7.P. 65. Cook 4. Part of his Inft.

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1. Any two Juffices of Peace, Quorum unus, Sed. 2, may after Examination of the Offence, fine ac- and duty of cording to discretion, such as buy and fell by un- the lustices lawful Weights and Measures, or sell with Mea. of peace out fures unmarked and unfealed according to the of Sections great Standard. But some think this cannot be herein. done but at a private Sessions. Y 1 H.7.4. Dalt. 9. P.177.193. But now by the new Law of 16 car. Any one Justice of peace may upon proof by oath of one witnesse against a man that he doth fell by, or keep any other weight or measure (then according to the great Standard) whereby any thing is bought, or fold, may fend his Warrant to the Churchwardens and Over-feers of the poor of the place to levie five shillings forfeiture of his goods to the use of the poor. And for want of diffresse to put him in prison till he pay it,

Some or one of them may and ought to fit with the Clerk of the Market to fee that he doth Clark of the 1. Not feal any Weight or Measure more than Market, once, 2. That he take nothing for fealing after

## Of High wayes and Bridges.

Chap. 29 the first time. 3. That he take no mony for any Bills, &c. 4. That he do all by the great Standard. 5. Head officers of corporations and Lords of Liberties, that are Clarks of the Market are to execute their office as formerly, and not refuse any weights or measures, that are just, their due fee being offered, nor allow any that are false under pain of five pounds. Any one Justice may by his warrant to the Churchwardens and overfeers of the poor of the place upon oath of one witnesse cause to levy by diffresse and sale of goods, five pound for the first, ten pound for the second, 20.1 for the third offence against a clerk of the market for The name! taking more then his due Fees, or for figning weights or measures, fining or amercing of any without a due tryall. 16. Car. 17. the of Sectors

# CHAP. XXIX.

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### Of High-wayes and Bridges.

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High ways,
Conitables,
Church =
wardens.

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The Confiables and Church wardens [ under pain to be fined at the Quarter Seffions ] are the Tuesday of Wednesday in the Easter week to call their neighbours, and choose two Supravifors for the mending of the High-wayes leading to Marker Towns. And they are to order this work. And if either of them chosen refuse or neglect his duty in this Office, he forsets twenty shillings a time. Stat. 2.8: 3. P. M.S. But now the

Of High-wayes and Bridges. 195

the choice is to be the first Tuefday after the Cha. 29

twenty five of March.

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For the discovery of the duty of these Officers and the Law in this point, these things are to be known. It is they have to do with no wayes but the ways called the Kings High ways. Kings highs And so it hath been resolved by the Judges in wayes, the upper Bench, for the Statute is High-wayes leading to Market Towns.

of the Parish are at the time of chusing of these Officers to name and appoint six days, to be before the Nativity of Saint John the Baptist then next following, set apart for the amending of the High wayes; and they are to give notice. Notice, thereof the next Sunday after in publick in the Church. And this being done, these Officers, aiz, the Surveyors of the High-wayes, are to see that surveyors, the same be observed, and that all the Parishioners do their work on the same dayes in manner as followeth.

3. Every person having a Plow land in plow land, Tillage or in pasture in the same Panssh, or keeping there a Plow or a draught, shall find and send on every day to the place appointed, one Wain or cart provided after the fashion of the County, with oxen, &c. sit for the carriage, and with necessary Tools sit for the Work, and with two able men, and then and there these men must do such Work with their Plow, &c. as they shall be appointed to dorby the Survey-orsaforesaid, by the space of eight hours on every of the said dayes, under pain to forseit for every default ten shillings. And every other Housholder, Cottager, and Labourers of the

Parish

Chap. 29 Parish (able to work, and be no hired Servant by the year) must by himself or some other able man, be then and there ready to work, and work every one of the faid 6.days by the space of eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit twelve pence for every day they thall make default herein. In the explication of which Branch, these things are to be known.

Plowsland.

That a plow-land is not of any certain content but ordinarily fo much as one plow may plow in one year, which in some Countries is more, in some leffe, according to the heavineffe of the Soil

2. That so many plows as men usually have and ple in the Summer about their own bufineffe, fo many they are to bring with them to this work. So that (for example) if a man with one Plow and five or fix Horses shall plow seven or eight score Acres of arable land, and shall usually go in the Summer time with two Carts, or Draughts; in this case it seems he is to come with two Carts, or Draughts to his fervice. And he that occupieth forty or fifty Acres of land, and keepeth onely three Horfes, and one Draught, or Cart, he is to come with one Draught, or Cart.

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2. If a man keep onely two Horfes, and a Cart for his own bufineffe : in this cafe, it feems he is to come with his Cart, and two Horses, provided with a man, or men, to manage them. o moon in

4. He that hath a Plow-land, and hath no plow, but doth fuffer his land to lie fresh, yet is to find and fend a plow to this work. And fo it was agreed by the Judges in the Kings Bench, Cha.29

Mic. 21 . 74c

5. A plow-land may contain Honse, Medow, pasture, and wood: and therefore if one have so much of this as will keep a plow, yeeld tillage for it, if part of it were eared: in this case it seems, he is bound to send his plow, or else to pay for the same the penalty appointed by the Statute for his neglect.

6. He that keepeth a plow or Draught for carriage, albeit he occupie little or no land, or pasture in his own hands, yet such a one is bound by the Statute to send his plow to this

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7. He that occupieth a Plow-land, lying in tillage of paffure in severall parishes, shall be chargeable to the amending of the High-wayes in the parish where he dwelleth, as far as any person having a plow-land in any one parish, is

chargeable.

8. Every person keeping in his hands and possession, divers plow-lands, shall be charged to find in each Town or parish, where the Plow-lands, being in his occupation, do lie, one Cart, &c. furnished for the reparation of the High-wayes in the severall parishes where his land doth lie, as if he were a parishioner dwelling in the parish where the plow-land doth lie.

4. If a man be chargeable but as a Cottager, yet if he be in the subsidy five pound in goods or forty shillings in lands, so long as he stands at that rate, he is to send two able men to the

work every one of the fix dayes.

5. If the Surveyors shall think any of the Plows

Cha.26 Plows or Carts to be needlesse any of the dayes, they may spare them, and in stead thereof require two able men, the which must come, under pain to forfeit twelve pence a man for every default.

according to the direction of the Statutes, and every man is to fee that he doth his part there-in. But if the Survey ors themselves shall license any man to do lesse then his work, this will excuse him.

Hedges and entches next the High. wayes.

7. The Owners of the grounds adjoyning to the High-wayes, are to take care that all the Fences, Hedges and ditches next adjoyning on either fide of the same, be from time to time diked, scowred, repaired, and kept low; and that all the trees and bushes therein be cut down, under pain to lose for every default ten thillings. And if any man hath any ditch in his own Ground, that doth ferve to lead away the water out of the High way, and he doth not scowre and keep the same clean, so as to convey away the water, he shall forfeit for every Rod not to fcowred twelve pence. And if any man that hath a ditch lying by the high-wayes fide, doth cast the same up into the high-way, and then foffer the same to lie there by the space of fix moneths, to the annoyance of the high-way, he shall forfeit for every Load so cast up twelve pence.

Nulance,

8. These officers may, if they see cause, for the amendment of the high-wayes, take and carry away so much of the rubbish and smallest broken stones already digged of any mans Quarry, lying within the same parish, without leave of

the

the owner, as they shall think needfull: but they Cha. 29 may not without license dig in any mans Quarry for new ftones, much leffe take away any mans stones already digged. And if there be no such Rubbish to be found in any such Quarry within the faid parish, then they may enter into any mans feveral ground (within the parish) lying near the place where the wayes are decayed, and there, if they see hope of finding materials fit for Reparation thereof, may dig a new Quarry without any leave of the owner of the Ground; or they may enter upon any mans ground, and gather stones that lie dispersed there. But they may not without leave dig for any new Quarry in the House, Garden, Orchard, or Medow of any man; nor (albeit it be in another Ground) dig more then one pit, and the same in breadth or length not above ten yards over at the moft. And then also they must take care that the same be within one moneth after filled up again at the charge of the parish, under pain to forfeit five Marks to the owner of the ground. And if there be any Spring, or water in the High-way, that doth annoy the high way, they may turn the fame out of the high-way into any mans ditches, according to their diferetion.

9. They must within one moneth after any default is made in any of the particulars afore-faid, present the same to the next Justice of peace, under pain to forseit forty shillings for

every neglect.

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10. If any man offend against the Statute of 2 & 3 Phil. Mar. 1: If the Constables and Church wardens shall not make a due Election of these Officers, and set down, and give notice

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# of High-wayes and Bridges,

260 Cha.29

of the times and dayes for the Work; Or if the Surveyors do not look to, and order the Work; or the Parishioners do not wait upon the work as aforefaid; in all these cases, the offender may be punished by fine or amercement in the quarter Seffions, or Leet, according to the discretion of the Justices of the peace, or the Steward. And these Fines and Amercements are to be levied and imployed by the high Conftable. And if any man oftend against the Statute of 5 Eli. 1.1f these officers after they have digged in any mans inclosed Ground, shall not fill the pit again, or if they shall not present the defaults to the next Justice of peace, as a aforesaid; or if any of the High-wayes shall be un-repaired or the owners of ground shall not cut up their Bushes. and fcowre their Ditches adjoyning to the highway; in these cases, the offender may be punished by Fine at the quarter Seffions according to the discretion of the Justices of peac. And these fines are to be levied and imployed, as fines and Amercements levied upon the Trans. greffours of the former Statutes. And if any man offend against the Statute of 18 Eliz.cap.9. .i. If any man cast soil into the high way, and do not remove it within the time aforefaid, or do not fcowre their ditches,&c and cut down their Bushes in the High-wayes; the forfeitures of these men (being set down in certain by the fame Statute ) may be levied by these Officers immediately by diffresse and sale of the Offenders goods upon a Warrent sent from the lustices of Affile, Inflices of the Peace, or Steward of a Leet, before whom the same persons shall be convict. And if they be negligent, and do it

not

not within a year, then the Constables and Chap.29 Church wardens of the place may levy the fame, as money is used to be levied upon an Amercement in a Leet.

II Such as make inclosures next the High\_ Inclosure. way, must amend the way next to the inclosure, otherwise it must be amended at the charge of

the Town.

12 High-ways leading from Market to Market should have neither dike or bush wherein Theeves may lurk, within two hundred foor of either fide.

13 The Lord of a Park that doth inclose, must fet out two hundred foot on each fide, from the way, or a sufficient Wall, or Ditch, or a Hedge, that the offenders may not eseape. Dalt. 7.P. in

cha.26.

14 The Bailiffe or High-Conftable must levie the Amercements eftreated for these offences, make a true account, pay the remaining Account, money to the Constables and Church-wardens of the Parish, who must imploy the same on the High-wayes, Sub pana five pounds. And if they refuse to account or pay, they may be imprisoned ment, till they do it.

15. It feems these Statutes extend not ro common Bridges, and that there is another remedy for them, which followeth. Cook, 2. part of

his Institutes.701.

16. If the offender hath been punished in a Leet for that herein whereof they have conu-

fance, the Justices are not to punish him.

17. If all this labour appointed by the Statutes to be bestowed on High-wayes, be not sufficient for the amendment thereof, the Parish must

Of High-wayes and Bridges.

Cha. 29 must supply it: For the parishioners of every

202

parish are to look to their High wayes, that they be well repaired and kept, at their perill; Indictment, for an information of an Indictment may be (by the very Common Law) preferred for the King against the Inhabitants of a parish, for not repairing of their High-wayes; and thereupon they be fined to the King: and in this case the fines shall not go to the use of the High wayes, as the forseitures and the penalties for the breaches of the Statutes shall do. But now all these Fines and forseitures are by the new Ordinance of Parliament, to go to the new Surveyors upon this Ordinance, and by them to be laid

out about the High-wayes of the parish. Ord. 21.

Bridges,

March. 1654.

By common right common Bridges are to be repaired by the whole County; for it is for all 2. Those and their Ancestours, their ease. who time out of mind have been used to repair Bridges, must doe it, and may be forced to it. And thus a man may be charged either ratione tenura, for that there those whose estate they have in that land, have been used to doit; Or by Prescription, that such bodies politick or corporate, have been used time out of mind to do it: For otherwise, they that have lands adjoyning, are not bound. But a voluntary making will not charge a man to do it. 3. If it cannot be known what person or place should do it, it must be known by the places thereabouts, by order of four Justices of the peace. 22. H. 8.5. 4. A Bridge lying in a Corporation, or Franchife, the Hundred or Guildable shall not be chargeable with it, et sic è converso. 5. If the Bridge'

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Bridge lie in two severall Connties, or other Cha.22 Divisions, both Counties must contribute towards it. Dalt. J.P.ch 13. 6. They that are to repair a Bridge, are to amend the way at both ends of it for three hundred foot. Cook. 2. part. fol. 700. 7. The remedy, if it be not amended, if it be a private Bridge to a Mill, &c. where another hath a way, must be by the Writt, De ponte reparande. But if for the publick, it must be by presentment before Judges of the Kings Bench , Justices in Eyre , or Commissioners of Oyre and Terminer, or Justices of peace, as followeth Cook, idem. 8. Four Juffices, Quorum unus, may enjoyn the County to do it by a Rate on every man without exception, which must be in parchment in every Hundred, under the Justices Seals, and then delivered to the Collectors, who afterwards may diffrain for it ex officio, in any place within the Hundred; and this one of them may do with the confent of

Rate

Any one Justice of peace may present to the Sed 2. Seffions any default of the High-wayes upon Thepower his own view; and this presentment is of as and dury of much force as if it were found by a Jury; but the Inftices of peace out it is intraversable. And he may take the present- of Sessions ment of the Supravifors of the High-wayes, or herein any under-officers touching any default about p elentment them. And this he must return to the next quar- Certificate. ter Seffions. Also he may cause High-wayes to be enlarged, and cleanfed of trees and bushes, according to the Statute of Winchester. But there must be two, Quorum unus, to compell and take the accounts of any officers that have received any forfeitures for any offence about the Highwayes

Chap.29 Commits ment.

upon the Statutes, and to imprison them till they do account or pay the money in their hands.

And there must be four, Quorum unus, ( and where are not fo many, it cannot be done) who with the Constables, or two of the Inhabitants

of every parish (and without their affent it cannot be done ) my tax the inhabitants in any

places within the Shire, for the repairing of a

Collectors.

Rate.

Bridge, or the High-way within 300 foot of it, when it is unknown who ought to repair it. 5 Eliz. 13. 18 Eliz 9. 3 M.8. Cook. 2 part. 701. And they may appoint two Collectors to gather the money, and two Surveyors to look to the work, and give account of it, and of the mony, and give them allowance for their pains. and call them or their Executors, or Administrators to account. But it is faid, that the fafest way of doing this, is at the generall Seffions, Coo. 2 part of his Inft. 705. Four of them, Quorum unus, having made the rate for Chepftow Bridge. may make Collectors and Surveyors for the gathering of the mony and overfight of the work. And if any of them, their Executors or Adminifirators, refuse to account, they may compell them to it, and to pay over the money in their hands or commit them to prison till they do fo. 2 Fac. 23. See Nusance.

Chepflow Bridge,

And now as touching the new Ordinance, Of the Sura vegors upon made for the repair of High-wayes, these things are to be known. I All the Lawes made bethe new Ordinance. And fore continue as they were, fave onely in one what is to be or two alterations, which we have observed, done to the fo that now there must be two forts of Survey\_ High:wayes ors, one upon the former Lawes, and another upon this.

upon

upon this Ordinance. Upon this new Ordi- Chap.29 nance there must be chosen two or more sufficient housholders of every Parish, men that have twenty pound a yeer, or one hundred pound in personall Estate, the first Tewsday after the 25th of March yearly. 2 These must undertake the Office, and take their Oath before a Justice, within few dayes of their choice, under pain of ten pound. 3 Being chosen and fworn, they are to look to, and reform all the Highwayes, and Bridges of the Parish, and all the Water-courses, Streets, and pavements of Towns, Cities, and the suburbs thereof, and to reforme common Nusances, and to profecute all fuch as do any injury to the High-way. 4 They are to view the Wayes, and see what is needfull to be done, and what money to be had to do it. 4 They may make a Rate to raise this money; and this they must have confirmed by the hand of one Justice of Peace. And fo as oft as they please, if they bring it not to above twelve pence in the pound in the whole year. 5 If any diflike be against this Rate, the Justices of the Peace at their Quarter. Seffions, or any two of them ('as it feems ) out of Seffions, that were present in Seffions when the complaint came in. 6 This Rate, if it be not paid within seven dayes after publike notice of it given, it is to be doubled. 7 These Surveyors must hire men and plowes to do that which is to be done. And those they call for must work, and for the wages, and under the penalty that any Juffice of peace shall fet down. 8 These Officers must cause the ditches to be scowred, Waters to be turned, Trees and hedges

hedges to be cut that are Nulances to the Highway. 9 They may take materialls in any Common to amend the wayes. If none fuch be to be had there, they may go into any private mans Fallow or Pasture ground, in or near the Parith, but then they must fatisfie them for it. as much as one Juftice indifferently chosen between them shall fer down. 10 lif the parish be not able to amend their wayes by this Rate, and must have more, and it is poor and hath need of help, the Juftices at the Quarter Seffions may rate other Parishes that are under that value to help them untill they come up to that valew. II If any thing given to the repair of High-wayes be not, or misimployed, the Juflices at their Quarter Seffions may order and reforme it. 12 These Surveyers may distrain all the Supernumerarie Horses, Mares, and Oxen, if there be above five Mares or horses, or fix oxen and one mare, or horse in any one Wagon or Cart, and keep it feven dayes, and if then the Owner will not pay twenty shillings, for every Ox, Mare, or Horse above the number aforefaid, they may fell them, and keep up the money to amend the High-wayes. 12 The Parish may if they will, also make By-lawes for further redreffe of Nusances in, and amendment of the High-wayes, the which they may have confirmed by the Juffices of the peace in their Quarter Seffions. And the Rates and penalties fer by their By lawes may be levied by Warrant from one Justice of peace, by diffress and fale of goods 14 All the Rates, areares thereof, fines, iffues, forfeitures, amercements, and moneys arising by any of the former Lawes, 10

or this new Ordinance, by any thing referring Chap.29 to the High wayes, are to be imployed about repair of the high-wayes. 15 All these Rates by the new Ordinance, and all the new and old penalties and forfeitures, may be levied by diftreffe and fale of goods, by a warrant from any Justice of peace. And for lack of distresse, and non-payment within ten dayes after demand made, or left in writing under the hand of one of the Surveyors, at his house who is to pay it, the Justice may by his Warrant fend him to Gaol, without Bail, till he pay double the money and charges of profecution to gain 16 Thefe Surveyors are to give in an Account of the money received, and laid out, within a moneth of their year ended, to the Parish at a meeting to be appointed, and pay the money in their hands to their Successours. And upon neglect or refufall any one justice of peace may commit him to Gaol, without bail, till he make fuch Account and payment, and till he give fatisfaction to the parish for the wrong, fo much as any one Justice of peace shall set down. 17 If any Justice or other Officer, or other man be fued for any thing done upon this new Ordinance, the Action must be laid in the County where the thing was done, he may plead to it the generall Issue, and if the case appear so, the Jury must finde for the Defendant. And then, or if the Plaintiff be nonfuired, or discontinue his Action, the Defendant shall have his full costs he hath laid out, to be fet down by his own oath, and 101. more to make him amends for his vexation. Ord of the L. Protestor, dyc. 31 March. 1654.

Any

Chap.29 The power the suffices of Peace upon this new Ordine

Any one Justice of Peace may swear the Surveyor to execute his Office. 2 He may and duty of confirme the Rate made in writing by the Surveyors and the Parish, or by the Surveyors a-3 He may set down upon a reference to him, what the Surveyors shall pay for stones, or materialls, had out of a private mans Fallow or pasture ground, for the high-wayes, or for their passage over his ground for their conveniencie of carriage thereof. 4 He may end any difference that shall arise about the distress and fale of any supernumerary Horse, Mare, or Ox, in any Cart or Wagon. 5 He may give a Warrant to levie the Rate or penalty apon any By-law made in the parish, for reforming of Nulances. 6 He may give a Warrant to the new Surveyors to levie by diffreffe and fale of goods, the Rates, penalties, forfeitures; fines, Iffues, and amercements arifing upon this Ordinance, or upon any former Law, for offences about the high-wayes. And in case of lack of distresse, or not payment in ten dayes, after demand in Writing at his house, under the hand of one of the Surveyors, fend his Warrant to an Officer, to carry him to Gaol without Bail, till he pay double so much, with the charge of profecution for this neglect But it is good for a Justice to be well advised herein, in case where he doth grant Warrants to diffrain for penalties, or commit men , that the partie be first duely convict of the offence for which he is to be fo punished.

But there must be two Justices to order and fettle the Rate upon the Parish, for the payment of the twenty pound forfeit, for not ma- Chap.29 king of Overfeers when the money is levied

upon one or two of the Parish.

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And upon complaint of an inequality of Rate, the Justices in their Quarter Sessions, or any two of them there present may settle it. And therefore it seems sit in this case to referre it to two of the Justices then there present, who may determine it without Appeal.

So there must be two Justices to appoint the Wages for Carts, and Labourers, and under a penalty to force them to accept of it.

But no Justices can out of the Quarter Selfions rate other parishes not charged to twelve pence in the pound by the year, to the Highwayes, to help them that cannot by this Rate repair their wayes. Nor can any thing be done out of the Sessions in case of not imployment, or misimployment of any thing given to repair of High-wayes. But there the Justices may hear and determine all matters concerning it. And there onely By-lawes are to be confirmed that are made to reforme Nulances, and cannot be confirmed by the Justices elsewhere.

Ordinance of the Lord Protestor and his Councell. 31 of March, 1654.

noautualt or it may be taled; and made in

the name of the Juffice of Peace, thus, W.D.

tifus from, Or it may be made without any

Rep. Thefe are, Sec. withard the land W.D.Sc.

The contract the seller of the Julice of

The same of the delice on the

# of Warrants and Processe.

Warrant of the Justice of Peace is his Command to an inferiour Officer, to do fomething belonging to his Office. And this in fome feeciall cales may be good by word of mouth without writing. But of this we speak not here, or it may be, and must be in most

Adviles are to be observed and heeded.

The Justice is to take care to pen his Warrant plain and clear, and not ambiguous and doubtfull, fo that the Officer must be forced to enquire what may be his meaning by his

Let the Warrant be compleat when the coffice of peace doth put his hand to it, for it is dangerous to let it go with blanks, and give

other men leave to fill it up.

The ffile of his Warrant may be in the name of the Lord Protector thus . Oliver Lotd Protector, &c. with the tefte under the name of the Juffice that makes it ( which is nor usuall) or it may be stiled, and made in the name of the Justice of Peace, thus, W.D. Elq. one of the Justices, &c. And this is the usual forme. Or it may be made without any ftile onely under the tefte of the Justice of peace, thus, Complaint being made unto me, &c. These are, &c. witnesse the said W.D.&c.

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Or it may be made without any teste of the Chap. 30 Justice of peace, being subscribed by him, and sealed where sealing is necessary

4 We do not conceive it necessary to use these words in a Warrant, These are f in the name of the Lord Protector) to require, but it is sufficient to say. These are to require your howbeit the Warrant doth carry the more manifely in it, when those words are used in it.

above the Warrant, thus, To the Constable of Dale: Or in the body of the Warrant thus, W.D. Esq. To the Constable of Dale, Where-

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6 The Warrant may be directed to any Officer, as the Sheriffe, his Bailiffes, Conflables, Tithingmen; or to others that are no Officers, thus, To the Sheriffe of the County of G, or to the Bailiffe Itinerant of the County of G. or to the Bailiffe of the Hundred of R. or to the Conftable of the Hundred of R, in the County of G, or to the Constable of the Town or Village of Dale, or to the Tithingman of Dale, (as the Officer there is called) if it can bee known. Otherwise, the best way is to direct it to all the Constables and Tithing-men of Dale, within the County of G. and every of them. Or it may be directed to all these Officers together, To the Sheriffe, and to all Bailiffes, High-Conftables of Hundreds, and Constables and Tithing-men of Towns and Parishes within the County of G. and every of them joyntly, and feverally. Or it may be directed to these Officers, and to others that are no Officers all together. Or to them that are no Offi-

P 2

Chap. 30 cers alone, thus: To I S, and W S both of Dale in the County of G, and to either of them. But this must be understood of Warrants of the Peace. Good-behaviour, and fuch like Warrants, wherein the Justice of the peace is left at libertyto direct his Warrant to whom hee will: for if the Law do direct him to whom he must fend his Warrant, as divers Acts of Parliment do, some of them appointing him to direst his Warrant to the Constables; some to the Conftables and Church-wardens; fome to the Church wardens; some to the Constables and Church-wardens; some to the Churchwardens, &c. fome to the Church-wardens and Overfeers of the poor; he in these cases, that makes the Warrant, must take great care that he do pursue the direction of the Statute pun-Aually, for it is dangerous to vary from it ever fo little; and therefore the Title fet down in my Book of Prefidents for the Warrants must be followed, and not altered. And when the title of direction is to more then one, there it is good to adde these words, ( And to every of them ) and to fay in the body of the Warrant. These are to authorize and require you, and every of you. But the best way is to direct it to the common and known Officer, which is the high Conftable of the Hundred, or Conftable of the Town, in all cases where it is lest to the Justice of Peace to direct it to whom he please.

Greeting, used in Warrants may be left out; so may these words of Addition, to the Justices f of the Lord Protector assigned to keep the peace, th

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peace, and to hear and to determine Felonies, Chap.30 &c. ] and it is enough to fay Justices of the peace of (or within) the County of Gloudesester.

8 It is not amisse to say the place wherein the Officer dwels, to whom the Warrant is directed, is within the County. To the Constable of Dale, within the County of G. And so of other places named within the Warrant, to say

they are within the same County.

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o It is not amisse, if the Warrant recite conviction of an offence to let it expresse where the offence is done, thus, I. D. being convict before me, that he was drunk (at Dale in this County) because in many cases the forseiture is given to the poor of the place where the offence is done.

to It is good also now to expresse the time when the offence was committed, thus s. I. S. being duely convict before me, that he was drink at Dale in this County, (the first day, &c.) or within three moneths last past, or since the first of, &c. that it may appear the offence was done since the generall pardon, and in some cases this is, if not necessary, yet very convenient, when the offence is by the Law to be punished within a certain time, or not at all, there it is good to say, that the offence was done within that time.

of the making of the Warrant, and it must be some place within the County, thus, Dated at Dale, Given under my hand and seal at Dale in the same County. But if it say, it was dated at one place, and be dated at another place,

P 3

Chap. 30 yet the Warrant is good, and it shall be taken to be dated where the Warrant doth say it was dated.

12 The day and year also, being the time of the making of the same Warrant, must be

expressed in the Warrant.

13 The Warrant (being a Warrant to arrest) may be to require the Officer to bring the offender before the Justice that makes the Warrant, or before him, or some other Justice of the County, and either of the formes are good: but the best some is to require the Officer to bring him before the Justice of peace

himself that made the Warrant.

behaviour, where sureries are to be found or required, the Warrant ought to contain the speciall cause or matter, to the intent that the party arrested may be provided with sureries. But if it be for some great crime, the cause may be conceased. But the best way is to expresse the cause, as for Treason, Felony, &c. Or for suspicion of Treason, or Felony; otherwise if the prisoner escape, it is no offence, but if the cause be for Felony, then the escape will be Felony, though the prisoner be not quilty of the Felony.

Is In every Warrant to command an Officer to carry a man to Gaol, it is not amiffe to infert a clause at the end of the Warrant, to command the Gaolet to receive him, to this purposes. That you him convey to the common Gaol of the County, and him deliver to the Gaolet or his deputy there, who are hereby required him to receive and detain in their custody as a pri-

foner,

foner, until he shall be from from thence del Chaiso livered by a due course of Law. And this conclusion until he be delivered by Daw, or somewhat like must be in every Warrant & Mirinal.

16 Therois a necessity init, that the Justice of peace do fubicribe his name to his Warrant. But that he fould put to his feat in every case. is not needfull, for in a Warrant of the beace or good behaviour it is not needfull, nor where an Act of Parliament faith that the Juffice by Warrant ( or by Warrant under his hand) may do fuch a thing. But if the law fay he may, or shall do it by Warrant under his hand and seat there the warrant must be under his hand and feal, or it is not good. And therefore heed must be given to our Presidents berein where we say given under our hands and seals, and in those cases the Justice must put his hand and feal to the Warrant, or it is not well done. And for this cause we do advise the Justice to put his feal to every Warrant. bus , isaggo at h nati

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Warrant of Commitment and a Mittimus, for both, are to do one thing, and they differ a little, onely in the forme, will be easie there.

fore to make of them by the other.

offenders upon penall Lawes to bind them over to Sessions before they be indicted of the offence in cases where there is no special power or direction given by the Statute for to do But we dare not advise men so to do Being unsatisfied of the lawfulnesse thereof. But we agree it to be cleer and safe, that after the offender is indicted of the offender, and the bill found, or after the offence found by pre-

P 4

fentment

Chango fenement of the grand Jury , there it may be done, and the partie offending forced to be fwerit; And alfo to put in furcties for his good behaviour in the mean time, if the offence for which he is indicted will Warrant it. As if he be indicted for whoredom, felling Ale contrary to the Juftices order, or the like, fo also in cafes where a Law doth give a special command and power to any Juffice of peace to bind over an offender to the Sessions, as the Statute of 8, Eliz.4. Touching Mafters and Apprentices. the Law of 25 Eli. 10. Touching hawking in eared or codded corn, and the Act of o. Feb. 6. 1647. Touching repair of Churches, 1. Ed. 6. cha. 1.22 Eliz. 10. and fome others do. In thefe safes they may bind them over before indictment. But then it is best first to fend a Warsant of fummous to call in the partie offender before the Juftice to answer the matter. and then if he appear, and he fee no cause to forbear to bind him over to do it, and if he do not appear then he may fend for him, and bind him over; And bind him to the seed behaviour also for his contempt. For which there are Prefidents prepared amongst the Presidents set down in this books of Presienders upon pourt! Lawes to bind the stable

30 19 Where a Statute doth give power to a Justice of peace to compell men to do any thing in order hereunto, he may fend his Warrant to require them to come before him, and in gale of their refulall proceed as in the laft se igree it to be clear and faire, that after alen

orligo. The Juffices of the peace may fend their anarisWt, or after the offence found by pre-

feniment

Warrants for any thing that doth relate to a Chap.30 speciall Sessions, either to compell appearance, or attendance there, or execution of any thing there done under their own hands, if they please, or they may let it be done by the Clark of the peace, as the businesse of the Quarter Selfions is done

21 What may be done by the Warrant of one Justice of the peace alone, may be known by the penning of the Prefidents, for if it be penned to be made by one Justice (as W S, &c. whereas it hath been proved before me, &c.) then you may be sure that one Justice of peace alone may do the thing contained in the Warrant. And whereas two are warned, there in most of the cases two are necessary:

22 The same Prefident that serves upon a conviction by wirneffe, will ferve upon a conviction by view or hearing for J. S. being lawfully convicted before me, is appliable to either,

and will ferve to both.

23 It is a good close of every Warrant fent to an officer, to require him to give an account how he hath executed it after this wife; And that you be then, and there with this precept to give us account of your execution of it: or thus; And that you give me an account within fourteen dayes next following after your execution of Warrant.

24 Where a Statute is penned thus, That the Confrables of Church-wardens by Warrant from a Justice of peace shall be enabled to do

and Act in this case.

25 We conceive the Juffice may juffifie the making of that Warrant upon a bare complaint without 218 Reparation, duties of the Church.

Cha.31 without oath against a drunkard, or such like offender, a Justice may send to an Officer to warn him to come in before him to answer it, perhaps he may confesse it.

e done by the Floric

#### CHAP. XXXI.

Of Churches, and the Reparation thereof, and Church Duties.

Sell. I. For making of Church. wardens. Tor the better understanding hereos, these things must be premised I. The Parishioners of every parish where Church-wardens have been made, must yearly meet together on the Munday or Tuesday in Easter week, and then the major part of them together must chuse one, two, three, or sour of the parish to be Church-wardens, under pain of forty thillings to be sorseited by the parish to the use of the poor there.

2. This choice must be allowed under the hand and seals of two of the next Justices of

peace.

Their pows er and duty in making and levying of Rates,

3 These officers with the Over-seers of the poor or the greater part of them together, may make Rates for the raising of money to do that which they have to do in the execution of their Office. And as conching this point these things are to be known. I. These Rates are to be made for the raising of money before there be need; as for the repairing of a Church before it be in decay, and so for the like occasion.

2. The

2. They may raise money by Rates, for the buy4 Cha. 3 1 ing of Books providing of Bread and Wine, repairing the Church-yard or burying place, for the Kings Bench, Marshalfie, and the like. And fo also it feems for the Tower or Bels amendu ing, and for the amending of the Church; but the Church to be repaired must be a Parochiall Churchmor a Cathedrall, or Collegiate Church; nor must the Church be quite down, but onely decayed; for no Rate can be made to build a new Church, nor to amend the Chancel, or Ifles, belonging to any other man to repair. 3. They may for these causes Rate every Inhabitant and Occupier of Lands, Tithes impropriate, Woods, or other Hereditaments within the parish. 4 The Churchwardens must give publick notice in the Church, when, and where they will make the Rate.

5. The Rate must be equal, it must be therefore upon every Parishioner, and not upon some of the Parishioners onely, and it must be upon every of them equally, (viz.) according to the quantity and quality of their effates and lands within the parish, wherein they may rate by the Yard, Acre, or otherwise, as they think fit, fo as it be equall and according to the true value in

an equall proportion.

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6. If a man of another parish occupy lands in that Parish of his own; in this case the Churchwardens of that Parish wherein his land lyethe may rate him for the Church-payment to that Parishe according to the value of his land; and this albeit there be no house upon it, and albeit the Owner and Occupier dwell in another Parish: for as to this purpose he shall be said a Parishioner. 220 Reparations, duties of the Church.

Cha.31 Pasishioner, and therefore he may, if he please, come in and frequent the Church of that parish, as the Church of the parish wherein he lives And where the Landlord and Tenant both do live out of the parish, it seemes the Churchwardens may Rate either of them at their election. But some hold that in these and fuch like cases the rate must alwayes be upon the Occupier of the Land, and not upon the Landlord. Howbeit, in case where the Farmer or Occupier of the Lands doth live within the parish where the rate is made, there he onely and not the Landlord shall be rated : For the Tenant is to be rated for the whole value of the Land, and therefore the Landlord is not to be rated again for the Rent he doth receive out of the Land, for then the Land would be twice rated. And in this case there is a parishioner and Inhabitant chargeable, and receit of rent out of the parish for Land within the parish, by a man that lives in another Parish, will not make hima Parishioner. And yet in case where the Landlord and Tenant both live within the parish where the rate is made, there perhaps the Churchwardens may Rate which of them they please, yet so as they be not both rated for the same thing. But a man that doth neither dwell within the parish, nor hath land within the pariff cannot be rated at all towards the Church: and therefore if a Burcher come thither (being Market Town ) to fell mear, and have a fixed Stall there, this will not make him a parishioner. nor chargeable to the Church.

After the rate is fo made, it must be put in writing, and then it will be good to have the hands Tomoner.

hands of the Churchwardens, and fo many of the Chap. 31 parishioners hands as are agreeing to it.

8. The rate made by them, must be confir-

med by the two next Juffices of peace.

9. If any man refuse to pay his rates, the prefent or subsequent Churchwardens may by warrant under the hands and feals of the two next Justices, levy them, and all Arrears thereof, and two shillings fix pence for the charge.

10. If any man be grieved with the rate, or any thing done upon the new Ordinance of 1647. He may have relief at the next Quarter

Seffions.

4. They must within four dayes after their yeers ended, and new chosen, give account to their successours, and the two next Justices, and pay over the money in their hands to their fucceffours.

5. Isles and Chancels are to be repaired according to the custome; and if the parties refuse, the Churchwardens may by fait to the Juflices of the peace, compell them to it, as they themselves are compelled to repair the Church.

6 They are to receive and dispose the rents of Lands or Annuities given towards repair of Churches and Church duties, according to the intent of the Donor; every default in any of these things, is twenty shillings to the use of the poor of the place. See more for this in my Book of the Churchwardens office at large.

The duty and power of the Juffices out of Sea. 2. Sellions, lieth in these things : I Two of them The duty are under their Hands and Seals to allow the and power choyce of Churchwardens made by the Pa- of Iuftices herein out rish. 2 Two of them may, and must confirm of Se sions

Chap:31 the rates duely made by the Churchwardens, according to the Ordinance of Parliament. 3 Two of them may and must cause by a Warrant under their Hands and Seals to the present or subsequent Churchwardens; 1 To be levied the rates made, and the arrears thereof 2 To be levied all forfeitures for any offence against that Ordinance.3 To be levied all such mony as shall be remaining in the hands of any Churchwarden upon his account. 4 To be levied two shillings fix pence for the charge upon the persons paying the same, and to deliver the overplus of the diffresse. 4 And for lack of diffresse, they are to send the parties that have no diffreffe, or refuse to pay, to Gaol without bail till they pay it. 5 They may fend the Churchwarden refusing to account, to Gaol without bail, til he do account and pay the money in his hands upon account 6 Two Justices are with the subsequent Churchwardens to take the account of the old Churchwardens, 7 One Justice, upon Information given him, that a Church, Chancell, or Isle is ruinous, may examine it, and upon his own view, or a certificate of the Minister, and some of the parish appoint under his hand and feal to the Churchwardens. what shall be done, and by what time, for repair of the Church, and he that is to amend the Ifle, or Chancel for the repair thereof; and if it be not done accordingly, bind them over to the Quarter Seffions, where each of them may be fined as the Juftices please, not above forry shillings to the use of the poor, and committed

till he pay it. 8 Upon complaint, any two of the Justices may give a Warrant to require

the

the parties to pay it, or binde over to appear Chap. 32 at the Quarter Sessions 9 If the Parishioners, or any of them do refuse to pay the Parish Clerk or Sexton duly chosen, his due fees, Sexton or any of the two next Juftices, may by Warrant Parish Clerk under their hands and seals, order the Parishioners to pay the same, By Warrant from two Juffices, in such manner as the rates made for Churchwardens are by this Ordinance ordered to be levied. Ord. Feb 9. 1647. 10 It feems also they may by proof Witnesses on oath, hear and determin any offence against this Ord of Febr. 9. 1647 .

#### CHAP. XXXII.

Of Tithes, and the Payment thereof.

Or the opening of this, these thing are to be known. I Every person must fully, truly and effectually fet out, yeeld and pay all manner of Tithes, Offerings, Oblations, Obventions, rates for Tithes, and all duties commonly called Tithes, and all Arrears thereof to all and every the respective owners, proprietors, improprietors, and possessors, as well Lay as Ecclofiafficall, respectively, their Executors, and Administrators of Parsonages, Vicarages, or Rectories, either impropriate, presentative, or donative, and of portions of Tithes, according to the Law, Custome, prescription, composition, or contract respectively, by which they or any of them ought to have been let out, yeeld-

ed.

Chap. 32 ed, and paid at the beginning of this Parlia. ment, or two years before, Ord. 8. Nov. 1644. 2 Where any person out of the City of London hath fince two years before this parliament, fub. stracted, or hereafter shall fubfiract, withdraw, or fail in the paiment thereof, the party grieved, his Executors, or administrators, may be relieved by two of the Justices of the peace, Ord. 1644 3 This A& doth extend to Minifters placed by authority of this parliament, Ord: 9. Aug. 1647. 4 Ministers placed by the parliament, or its power, if in the doing their Office, or receiving their dues, they be diffurbed by malignant Ministers ejected from thence, or any others by their means, they may be relieved by complaint to the Justices of peace, Ord.23. Aug. 1647. 5 If the party ordered to pay Tithes, be grieved with the Justices Order herein, he may by complaint bring the matter into Chancery, and there it shall be reheard, judged and determined. 6 No Appeal is to be allowed herein, except the party do first lay down in money with the Juftices, or in Chancery, the full value of the Tithes adjudged, and treble costs, not exceeding 10 l. by way of fecurity to profecute his Appeal with effect, and to render double costs and damages to the party delayed, in case relief be nor given on the Appeal by the profecutor : this last Branch is to continue till I. Nov. 1650. Ord 20. 08. 1648.

Sett. 2.

Thepower and dury of Iuffices of peace herein out of Sels sions.

Any two Juffices of peace, not being Patron or parties of the place where the substractio is, nor being any way interessed in the things in questio may out of Sellions, I Summon the person complained of before them. 2 Upon default, fend the

Warrant

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Warrant to their Constable or other Officer to Chap. 32 fum mon the party again before them. 3 Upon a fecond default, the fummons being proved by Oath, or upon his Appearance by Oaths of witnesses, and other proofs on either side. hear and determine the matter, and by writing under their hands and feals, adjudge the cafe, and give reasonable costs and damages to either party, as they shall think fit. 4 They may alfo, if they will, give treble damages, where the Statute doth allow it. 9 If the party do not within thirty dayes after notice of this judgement given to him, pay the Tithes or money fo adjudged according to the judgement, then upon complaint, the same Justices may give a Warrant to the Plaintiff, the Constable or fuch other person, or persons as the Plaintiff shall name, to diffrain and sell his goods and chattels to fatisfie it, returning the overplus. 6 If no diffresse can be found sufficient to do this, the same or anyother Justices may commit him to prison, without bail, till he do satisfie it according the judgement. Ord.8. Nov. 1644. and 9. Aug. 1647. 7 If the Officer or other person shall not duly execute their Warrants herein, they may fine him 40 s. or underto the use of the poor of the parish, and send their Warrant to whom they please to levie it of their goods and chattels. Ord. 20.08. 1648. If any scandalous or ill-affected Minister, put out by Authority of Parliament, shall enter upon him that is put in his room by that Authority, and either by himself or others, shall hinder the Minister put in, of receiving the Tithes and profits, any two Justices may upon

The power

Chap. 33 proof by oath of two witnesses give such damages as they shall think fit , fettle him that is put out in the quiet possession, raise the trained Bands or Forces to affift them; and in case of disturbance by them made upon the Minister put in, in the execution of his office, upon proof thereofby two Witnesses oathes, commit the offender to prison for a moneth for every offence. Ord. 23. Aug. 1647. Ord. 8. Novemb. 1644. 4. April 1648. August 1654.

And in the execution of this power, let the Inflices of the peace be very carefull what they do. To see, I That the plaintiff have a title to the Tithes. 2 That the defendant be a parishioner. 3 That Tithes were paid two years before Wars, or it be a medus decimandi 4 And then proceed in every particular according to the Ordinance, otherwise the party that doth execute their Warrant and the Justices may be

fued, as divers are daily.

### CHAP. XXXIII.

# Of May-Poles.

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May-Poles shall be set up, and if any shall be, they must be taken down forthwith by the Confiables and Churchwardens of the place, sub pæna five shillings a week, till and duty of it be taken down.

Juftices of Any one Justice upon view, confession of the Peace herein out of quar- party, or proof of one witnesse, may give warrant under ter Selsions.

under his hand and feal to the Conftables or Chap. 34 Churchwardens of the place where the offence is done, to levie it of the parties goods by diffresse and sale, rendring the overplus, and for lack of distresse, to put him in the stocks three hours, Ord. 6. April, 1644.

#### CHAP. XXXIIII.

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Of Superstitious Reliques, and the demolishing thereof.

Or the opening of this, take these things I All Altars and tables of stone are to be utterly demolished, all Crucifixes, Croffes, Images, pictures of any Person of the Trinity, Virgin Mary, or other Saint, were to be de-All Communion Tables were to be removed from the East end to some other convenient place of the Church or Chappell. And all rails about the fame, all tapers, candle-flicks about the Communion table were to be taken down and removed, before the first day of Nov. 1643. 2 This was to be done and the place to be made up again by the Churchwardens at the charge of the parish. 3 Otherwise they were to forfeit for twenty dayes default after that time forty shillings to the use of the poor of the Parish. Ord. Aug. 1643. 4 All representations of any Persons of the Trinity, Angel, or Saint, in and about any Church or Chappell, or other Q 2

Chap. 34 other open place whatfoever, shall be taken away and demolished. 5 No such must be hereafter fet up. 6 The Chancel ground being raifed for an Altar, or Communion Table, must be levell'd, and made as it was twenty years ago. 7 No copes, surplices, superstitious Vestments, hoods, or Rood-lofts, or Fonts, shall be, or be any more used in any Church, but shall be utterly defaced. 8 No cross, crucifix, picture, or representation of any Person of the Trinity, Saint, or Angel, shall be, or continue upon any place, or thing used, or to be used about the worship of God. 9 All Organs and the frames and cases wherein they stand, in Churches or Chappels, shall be taken down and utterly defaced, and none other shall be set up hereafter in their places. 10 But Images, pictures, or coats of Arms in glaffe, stone or otherwise, in a Church, or other place, fet up for the Monument of a King, or other person not reputed a Saint, is not to be taken down, 11 Churchwardens or Over-feers of the poor may fee this done.

The power'
and duty of
the justices
of Peace out
of Sessions.

Any one Justice of peace where these things were before, and were not taken down by the time, of the first of Nov. may upon Information to him given, cause it to be done at the charge of the parish, or if he will the Church wardens, and Over-seers of the poor may see it done. And the Justice may cause the Churchwardens to repair it as before, at the charge of the parish. Ord. May 1644.

#### CHAP. XXXV.

Of Relief to maimed Souldiers, and the Widows, and Orphanes of flain fouldiers.

He Souldier maimed, or disabled in body for work, in the Parliament service, in the late Warres before May 1647. must first go to the place where he was fetled when he took up Arms. 2. He must get a certificate of his fervice, and of his hurt received under the hand of his Captain, or Commissarie Officer. 3. He must by his own oath, or by witnesses oaths prove the truth of the certificate to the two next Juftices of the Peace.

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The two next Justices of peace to the place where the maimed Souldier was The Justices fetled, when he took up Arms, upon fuch a power and certificate as before may examine the truth duty ont of of the thing by his own oath, and by wit-Seffions. nesses. Or in case the Captains and officers be dead, that he can have no certificate, upon the bare request of persons of credit, may by Warrant to the Treasurer assigne him relief, till the next quarter Sessions. 2. And as to the Widows, and Or hans, of persons slain in those Wars that were Souldiers, the two next Justices may appoint the Treasurer what allowance to give them out of the furplus of the money after the maimed Souldiers be paid. And this order.

Of a challenge and fighting &c.

Cha.36 order the Treasurer must obey. 3. Any two Justices may by Warrant under their hands appoint the Treasuer to pay any money they shall think fit, to any Souldier that is maimed, or the Widow or Orphans of Souldiers flain or dead in the service of the Parliament that are in want. And the Justices are to acquaint the next Seffions therewith to the end that the fame may be continued or determined, as the Juffices at the Seffions shall think fit. Ord. May 1647. Ord. August 1647. Ord. December 1647.

#### CHAP. XXXVI.

Of a challenge and fighting of a Duell.

Or this, these things are to be known. It. If any do by meffage or writing or otherwise make a challenge of, or take a challenge from 1 12 70 1 any person to fight a Duell, or do not within twenty four hours after the challenge received discover to a Justice of peace, or if one know. ing thereof carry such challenge between others to fight a duell, he is to be imprisoned fix moneths without bail, and to be bound to his good behaviour for one year. 2, If any man kill another, in fuch a case, he and his Accesfaries are murderers, and it shall be murder in them all. 3. They that fight a Duell, and all their feconds, and Affiftants that are privie to it before, shall be banished during life, and 29bin

Murder.

Felony.

it shall be Felony to return after banishment. Cha. 26 4. They that know of fuch agreement, or purpose to fight a Duell and do not disclose it, and do their uttermost to prevent it, forfeit ten pound. 5. Any person, officer, or other may apprehend fuch persons, as they perceive to to have an intent, or to be going about to fight, or that are fighting a Duell, and cary them to a Justice of the pe ac e, to be bound to the peace, and to appear at the next Gaol-deliverie or generall Sessions of the peace. 6. No Certiorarie shall be granted to remove an Indictment for making, or taking of challenges. 7. For difgracefull and provoking words, or geftures men may be indicted, fined and imprisoned till the fine be paid, and made to give recompence to the partie grieved, and must lie in the house of Correction till it be paid.

He Justice of peace out of his general! Sef- flices of fions hath no power herein more then ano-man fave onely in these things ther man fave onely in these things. 1. He sions. may bind to the peace, and to appear at the next Sessions, or Assizes such as are brought to him that were fighting, or about to fight a 2. He may fend for the witnesses and bind them over also to appear there; And this is all that he can do out of Sessions. Ord. June 29. 1654.

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The power of the Ju-

CHAP.

#### CHAP. XXXVII.

Of calling Officers to account for mony received to publick use.

Wo or more Juffices of peace may out of Seffions call all Treasurers High-Conftables, petty-Conftables or other persons who have been formerly entrusted with the collecting, receipt, or disposing of any money charged upon any parish, by the Statutes of 43. Eli. and whereof no account hath been given, their Executors or Administrators, and order the payment of such money as shall be found in their hands to be paid to the present or succeeding Treasurer by them appointed. Ord. May. 1647.2. Any two Justices, Querum unus, may call any of these Officers who have had any hand in the receiving of these monies, for the old or new mained Souldiers, and take account of them what money is in their hands, or in the hands of any Justice of peace, Treasuerer, or other Officer. 3. Two Justices, Quorum unus, may call Officers to account for money received for the use of the poor, Stat. 43. Eliz.

#### CHAP. XXXVIII.

## Of Stage-Plays.

STage-Playes, Players of Enterludes; and common Players, are Rogues, within 39. E-liz. and 7 Jac. and so to be used, albeit they be no wanderers, and albeit they had license from the King, or any other so to do. Ord. F1.

Feb. 1647.

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The Lord Mayor, and Justices of peace of London and Westminster, Middlefex and Surrey, or any two of them within their respective Jurisdictions, may demolish Stage-galleries, Boxes, &c. that are or shall be used for Stageplayes, and within two months after the offence, cause to be apprehended and openly whip'd in some Market-Town within their Jurisdiction, him that upon view or oath of two witnesses shall have acted in any such play, and make the party offending enter into Recognizance with two fufficient sureties never to offend so again, and commit him to prison if he refuse so to do. And if any fuch offender shall after this offend again, he shall be dealt with as an incorrigible Rogue. Ord. 11. Feb. 1647.

All the money gathered of such as come to see any Stage-play and enterludee, shall be for-feited and paid to the Churchwardens of the place, to be disposed to the use of the poor thereof. Any two Justices of peace of that County

Chap. 30 County or place, upon complaint thereof, and proof upon oath of the same, may by Warrant under their hands and feals, command the Constables and Church-wardens of the place to levie it on the goods and chattels of him that re-

ceived it, rending the over-plus.

The power Iustices of peace herein out of Se si ons.

Any one Justice of peace, upon confession of and duty of the party, or proof of one witnesse upon oath against him, that he hath been present at, and a spectator at any play or enterlude, may fend his Warrant to the Church wardens or Constables of the parish where the offence is committed, to levie five shillings forfeit to the use of the poor of the place where the offender dwels, by diffress and fale of his goods, rendring the overplus. Qrd. 11. Feb. 1647.

### CHAP. XXXIX.

# Of Free Quarter.

Or the understanding hereof, these things must be known: 1. One or more of the commission Officers of each Troop, Company, or party of Souldiers, that shall be with and have the command thereof, must by a Ticket under his hand, fetting down the names of the Souldiers to whom in is given, appoint his house of Quarter 2. No Souldier without this may enter into any house but by the owners consent. 3. No fuch Officer, or Conftable, or Head-borough, may appoint Quarters for any Officers or Souldiers TIMESON!

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diers in any house but common houses. 4. If Cha.39 he do, and the party grieved complain to two Justices of the peace, or two of the Commissioners of the monthly Affeffments, they shall have relief from the Committee of the Army, and they may defalk 14. dayes of his pay the next time for the first offence, and for the next he must be cashiered. 5.If any Souldier or Officer upon fuch Ticket, or any pretence whatfoever, take Free Quarter, or go into any house to quarter, but common houses, without the consent of the owner, upon such proof and certificate as aforesdid, he shall forfeit as before. 6. The Committee of the Army are to allow and fatisfie all frich persons, as before complaining, fuch allowance, not being above three dayes. for fuch unlawfull quartering, as they think fir, according to the allowance appointed, and they may deduct it out of the pay of the Officer and Souldier offending. 7. If any party of fouldiers, Troop, or Company march without a commission officer, the Colone doth lose fourteen dayes pay, which the Committee must deduct from him, to be born amongst the field Offlicers of the Regiment; or if it appear to the Committee or Councell of War, the fault is elfe where, they may order a re-imbursment of what is paid on the offenders. 8. If it be a Troop Company, or Parry out of a Regiment, it shall be laid upon the Captain, if he be innocent? he shall be allowed it out of the offenders pay. And bild and allowed

Any two Justices of peace upon complaint to of the luttie him of any fuch injury done to him, may exa- h rein one mine it upon oath, and fend the fame exami- of Session .

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Chap. 40 nations under their hands and seales to the Committee of the Army. All. 19. December

18 The Ordinance of the fourth of April 1648 having reference on ly to the Lord Fairfax, feems to be at an end.

#### CHAP. XL.

# Of Marriage.

A S to this and what is needfull to bee known in reference to this Office, these things are to be known. I That Marriage is the coupling of a man and woman together, to be by agreement man and wife.

What it is. quilire to make a good marriage.

To the making of a good Marriage by the orthings re- Law, as it stands at this day, these things are necessarily required. I The man married must be fixteen years old or more, and the woman must be fourteen years old or more, 2. They must not be persons prohibited to marry by the Law of God, for affinity, confanguinity, or any other caufe, Stat. 32 H. 8. 39, And therefore it feems, if they be within the Leviticall degrees prohibited, it is not good. The parties must freely confent, and neither party be brought to it by force or fraud. And their Parents, Gardians, and Overseers alfo, if they have any, and they be under one and twenty years of age either of them, must confent to it, 4 They that are to marry must be

be one and twenty dayes before the marriage, Chap. 40 deliver to the Fegister of each Parish where the parties do dwell, the Christian names and firnames of the persons to be married, with the additions of the places where they dwell, and the names of their parents, gardians, or Overfeers, if they have any. 5 This marriage must be published by the Register in the Churches of borh places, or by some other by his appointment and procurement three Lords dayes before, at the closeof the Morning Exercises, or in the next Market Town, on three Market dayes together, in three weeks one after another in the Market place, between eleven and two of the clock. And then certifie to a Juflice of peace of the County where one of the parties dwell. And if any exception be against the marriage, this must be certified also to the Justice. 6 This publication being thus certified by the Registers of the places, to a Juflice of peace; And he being fatisfied of this publication and confent of parties, and their parents, and gardians, as before. This Justice must marry them after the forme herein set down afterwards.

And if the substance of these things be not pursued, the marriage is void. And all this the Justice must see be entered in the Registers

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And of this they may, if they will, have a Certificate under the hand and feal of the Justice of peace, and cause it to be entered, if he will in the Rolls of the Sessions. But these things it seems are not necessary to the essence of the marriage, and there ore the negled, or misdoing

Chap. 40 mildoing of these cannot nul the marriage duly

If any by force or fraud fteal away any perfem under one and twenty years of age, with intent to marry her they forfeit all their estates, reall and personall the one half to the Common-wealth, the other half to the use of the person taken away. And they are to be kept in prison, or in the house of Correction during life; And all that are aiding to it are to be kept in prison seven years.

And if any having the trust of such children as Gardians, or Over-seers shall betray their trust, and procure such a marriage of any child without his or her free consent, he shall forfeit double the portion of such child, the one half to the Common-wealth, the other half to the

person betrayed.

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The part & duty of the justice of peace herein out of Sessions.

Any one Justice of peace in the making up of a marriage, may and must do these following things.

- The must, and may by oath of witnesses, or otherwise as he sees cause, satisfie himself, that the publication hath been made as before is set down, the consent of parties, parents, or gardians, if either of the parties be under one and twenty years old, and in the exceptions made against the marriage.
- 2 Celebrate the marriage after this manner. The man taking the woman by the hand must say these words:

I A. B. Do here in the presence of God, the searcher of all hearts, take thee C. D. for my wedded Wife, and do also in the presence of God, and before these Witnesses, promise to bee unto thee a faithfull and loving

Then the woman taking him by the hand must fay thus.

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I C. D. Do here in the presence God, the searcher of all hearts, take thee A. B. for my wedded Husband, and do also in the presence of God, and before these Witnesses, promise to be unto thee a loving, faishfull, and obedient Wife.

And this being done, the Justice is to deelare them to be man and wife. If either of the parties be dumb, the words may be spared. If they have no hands, the taking of hands may be spared.

3 This done, he must if the parties desire it, give a certificate hereof in parchment, under his hand and seal of the marriage, witnesses, and all the circumstances thereof to the parties. For which his man is to have onely twelve pence.

4 He is to see the Register to make an entry in his Register Book of the publication, confent of parties, parents, or gardians, and exceptions, if any be in the case. All. Dated 24. Aug. 1653.

CHAP.

Chap. 40

#### CHAP. XLI.

# Of the Assuming of new Titles.

One may after March the 25 h 1652. by writing or otherwise, affume any Titles of Honour or dignities given to, or conferred upon them by the late King, since the fourth of January 1641 under colour, thereof, under pain, if it be of a Duke, Marquis, Earle, Vicount, or Baron, of one hundred pounds forfeiture: And if it be of a Baroner, or Knight forty pound 2 None may voluntarily and knowingly, by writing or otherwise give to any such person these Titles, under pain of 10 s.

The power of the justise ces out of Seisions.

Any one Justice of Peace upon confession or oath of one witnesse, may for the later offence, cause the ten shillings forseiture to be levied of the offender by distresse and sale of his goods; and for lack of distresse, cause the party offending to be put in the publike stocks for three hours. But for the first offence the party must be convicted in the Exchequer, or in the publike Sessions, AS. Febr. 4. 1651.

CHAP.

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### CHAP. XLIL

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### Of Transportation.

IF any load any Veffel, with intent to transport any Fullers earth, Clay, Tobacco pipe-Clay, or any other earth or clay, which may be used in the Art of Fulling, beyond Sea, he forfeits the things, and three fhillings four pence for every pound weight. And if any owner of ground where fuch clay or earth is digged, be privie to the transportation, and do not discover it to a Justice of Peace, within three moneths of his knowledge, he forfeits five hundred pounds. And if the Justice of Peace do not within three moneths after the discovery, returne the same under his handand feal to one of the Barons of the Exchequer, he forfeits one hundred pounds. And the owner of fuch ground, where fuch earth is digged, that shall sell or dispose thereof, must keep a Register Book and enter there, to whom, and what earth he fells, and where he dwels that hath it, and once in fix moneths give a note in writing thereof to one of the lustices neer the place, on pain of twenty shillings for feit for every hundred weight.

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The Justice of peace hath nothing to do herein The power out of the Seffions, but to certifie the owners dif of the luftis covery, under the Justices hand & seal, to one of ces herein the Barons of the Exchequer within 3 months out of Seish after the making thereof; and to receive from ons.

the

# 242 Of Scandalous books and Pamphlets.

Cha.43 the owner of the ground where the digging is, note in writing of the earth he doth fell, when he doth tender it to him.

#### CHAP. XLIII.

Of Scandalous books and Pamphlets,

S to this, these things are to be known: I. None may make, write, publish, sell or utter, or eause so to be done, any Book, Ballad, Libell, Sheet or Treatife of News, (without license of Parliament, or persons authorized by them ) and the name of the Author, Printer, and licenser prefixed, under pain of forty shillings or imprisonment in the common Gaol, till it be paid, or forty dayes to be endured by the maker of it, and twenty shillings, or imprisonment there till this be paid; or twenty dayes and his Printing tools broken to be endured by the Printer of it; and ten shillings or imprifonment there untill this be paid, or ten dayes imprisonment to be endured by the Stationer. The Hawker, Pedler, or Balad-finger is to forfeit all his Books, Pamphlets, and printed papets put to fale, and to be whip'd as a common Rogue in the place where the offence is committed, or the offender apprehended.

The power Any one Justice of peace may put in execution the Iustic on these things; and upon his own view, or oath berein ont of one witnesse, may convict the offender. And of Sessions, it seems to me by the meaning of this Law, he

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# Of the Justices Power, &c.

may fend him to prison for the time appointed, Chap. 44 if he do not pay the fumm appointed within the time limited. Ord. 28. Sept. 1647.

#### CHAP. XLIIII.

Of the Justices power and duty in other things.

Ny one Inflice of peace, where the offence is committed, or offender apprehended, (but he that is interessed in the matter ) may, upon the oath of one sufficient Witnesse, or the parties confession, for the first of Quarter offence, appoint such recompence to be given to the party grieved, as the Justice shall think divers other fit, by any mean or lewd person, that shall cut or carry away corn, or hay, rob or chards or gar- passes in Ors dens, break or cut any hedge, pale, rail, or c ards, fence, digge, pull up, or take away any fruittrees, cut or spoil any woods, under-woods, poles or trees flanding, (not being Felony) and their procurers and receivers: And if he judge him in his discretion unable to give satiisfaction, or he do not make fatisfaction according to the order, then he may make the Constable or other Officer of the place where the offence is done, or he is taken, to whip him, or cause him to be whipped. And if the Officer do not whip him, the Justice may commit the Officer to prison without bail, till he R 2 caule

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Sell.1. The power and dnty of the luftices of reace o. & Sessions in partic lars. About trefs

Chap.44 cause him to be whipped. And for a second offence, some say, (but if he be a common offender herein ) the Justice may bind him to the good behaviour, and to appear at Sessions, or fend him to the house of correction, 43. Eliz.7. 7. Car. 4. Dalt. 7. P. 57.

Good Echas viour. Bind over.

Sell. 2. About fen= ding an Ofa fender to Gaol Warrant.

Commits

ment.

If any offender fent to Gaol by a Juffice of peace, be able to bear his own charges for himfelf and attendance, in his convey thither, and do not pay that which is reasonable, the Justice may by a writing under his hand and feal, give Warrant to the Constable of the Hundred, or Conftable or Tything man of the place where he dwelt, where his goods are, or whence he is committed, to fell so much of his goods or cattels, as the Justice thinks fit to satisfie it, after appreisement by four of the neighbours, rendring to him the overplus, 3. 7ac. 10.

Any one Juffice of Peace may compell a man Sect. 3. to take crack'd money, or commit him to prison About

cracked mos upon 19. H.7.15. ney.

Justices have power to hear and determin all defaults about money by the Statute of 17.Ed.

4. I. by Cook. 2 part of his Inft. 742.

Any one Justice of peace (as it feems) by Sell. 4. About file, proof of two witnesses, or by examination of the party, and his own confession, or otherwise making. at his discretion, may hear and determine

all the offences about tyle-making, (viz.) if they be made of good earth, and of earth well -prepared, and of due affize in length, breadth, and thickneffe, and may affeffe the fines limited by the Starute. And this, it feems, must be at a privy Seffions by indictment, 1. Ed.4.4. Sed

Quare

fo on

# Of the Justices Power, &c. 244

Quare of this power, for some doubt of it. Lamb. Cha. 44

197. Dalt. 7. P. fol. 174.

Any one Justice of peace, may upon the proof, Sell. 5. [which may be by witnesses,] commit to pri. About souls fon Souldiers who pursoin Horses, Harnesse, or Mariners. Armour, til they make satisfaction to the owner, Commit 1.67 2. Ed. 6. 2. Dalt. J. P. in Chap. 52. So one ment, may license them after their landing, to passe to the place they would go, 39. Eliz. 17.

There must be two Justices to appoint what Sell. 6.

Fishermen shall be prest for Mariners, 5 Eliz 5.

Any one Justice of peace may joyn with the Sell. 7.

Clerk of the peace in the involuent of a Deed bout Instrument.

of Bargain and Sale, 27. H.8,6.

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Any Justice of peace may (as it seems) upon Sell. 8. the request of him to whom deniall of sale of Wines. Wine shall be made at the prices set down by Wines. the Lords, &c. enter into the Vintners House, and sell this wine, and take this money towards the forseiture for his offence. 24. H. 8.6.

Every Justice of the peace is a Conservator Sell. 9. of the Rivers, and of the Statutes concerning the About Fish, same, and may appoint under-officers to look and fishing to them. And they may for the first offence, burn such Nets and Engines as destroy Fish: for the second offence, imprison the offender for a quarter of a year; and for the third offence, imprison him a year. And he may give a Warrant to levie the forfeitures of them that destroy the broad of Fish. Dalt J. P. cha.

21. 13. Ed. 1. 47. 13. R. 2.19. 17. R. 2.9.3.

Six Justices of the peace, Quorum duo, may Sell. 12. for a year after the granting of the Commission About the on of Sewers, execute the same, unlessed a new Rivers.

R 2 Com-

# 246 Of the Justices Power, &c.

Cha.44 Commission be published within the year, 13.

Sed. 13.
About masking licenfes or Tellis
monials, or
Certificates.
Mariners,

There must be two, Quorum unus, to license Ale keeping. But any two Justices may license poor people to travell to Bath or Buxton. And any one Justice of peace may give a Testimonial to such as have suffered shipwrack, Souldiers and Mariners that come from Sea, of their landing, and place to which, and time in which, they are to go, and license to travell thither.

Labourers,

Servants.

And any one Justice of peace may license laborers to go out of one County into another, to work in the Harvest time, 1. Jac. 9.21. Jac. 739. Eliz 4.39 Eliz. 17.5. Eliz. 4. But there must be two to give a Testimoniall or license to servants that depart out of their Masters service.

Sect. 14. Cloth. Certificate. One Justice of peace may certifie deceivable. Cloth, or the breach of the peace before him, into the upper Bench, or any other thing done in his presence: this he may record and certifie. And this is a conviction to which no traverse lieth. Or joyn with a Customer, to certifie the unlading and selling of corn, and cattell carried from one part of the Realm into another, unto the Customer where it was laden, upon the Stature of fore-stalling.

Foresstals ling.

Porish

Prieft.

Or may take the Submission in writing and oath of any Jesuit or Priest within three dayes of his landing in England, and certifie it into the Chancery, Dalt J. P. 49.5. Ed. 6.14. 13. Eliz. 25. 22. Eliz. 1.13. Eliz. 2. 27. Eliz. 2. But there must be three to certifie for an Apprentice, that his

on 5. Eliz. But this is not necessary.

There must be four Justices to joyn with the
Lieutenant,

Parents can spend forty shillings per annum, up-

Apprentice,

Lieutenant, Deputy, or Bishop, to license a con- Cha. 44 fined Recufant to go about any speciall business

he hath to do, by 3. Jac. 5.

There must be two, Quorum unus, to call in, Sell. 16. attach, examine, imprison or bind them and the About the Witnesses to the Sessions, such as by false tokens counterfeits or Letters in others names, shall get into their tokens, hands any money or other things, 33. H. 8. I. Dalt. 7.P.ch.17.

There must be two, or more, to divide the Sea. 17. fourth part of a Wood, being appointed there- about the unto by the Sellions, upon the Lords complaint, dividing of

35.H. 8 7.13.Eliz.21.

Any lustice of peace may examine and search sea, 18. by his discretion, and punish by forfeiture of the About waxe work, or value thereof, and fine to the Commonwealth, fuch as do fell, or offer to be fold any Candles, or other works of Wax, at a higher Rate then four pence the pound, over the common price of plain wax between Merchant and Merchant, 21. H.6.12.

Any one Justice of Peace upon complaint Sect. 19. that any Dier is suspect to use Blockwood, or About Log-Logwood in Dying; he may call him before wood in him, and examine him or his fervants on oath, Dying. and if he find any thing, he may bind him with Sureties, and the witnesses to the next Quarter Selfions or Gaol delivery, whether he must cer- Bind over. tifie the examination. And if he refuse to be bound, fend him to Gaol till he do it. But commits there must be two Justices to give power to burn ment. the Stuffe, when it is found in any mans house, 23. Eliz.9 39. Eliz. II.

If the owner or occupier of any Mannor-house About killing crows. or lands in the County, worth five pound a year, &c.

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Chap. 44 refuse to pay him that taketh old crows, choughs or Rooks upon his Land, after two pence a dozen, upon complaint, any suffice of Peace may cause it to be levied by distresse, upon his goods and chattels. 24. H.8. 1.

About tas king of an Inquisition. If any Statute enable one Justice of peace to take an Inquisition, he may take it; otherwise there must be two Justices of peace to take an Inquisition.

About fuch as escape Subsidies. Any two Justices may charge double and punish according to their discretion, such as escape taxations at Subsidies. 3. Car. Lam. 336.

Self. 21.

Any one Justice of peace may direct the Constable, to sell such deceitful Malt as he upon fearch shall find, at such prizes as the Justice shall think sit. 2. Ed. 8.10. 27. Eliz. 14 2. Jac. 28. 3. Car. 4.

The reftraint of Malters must be at the Quarter-Sessions by order. But any two Justices of peace may upon consession, or by two witnesses, convict him that doth disobey this Order, and commit him to Gaol three dayes, and after till he become bound in forty pound, to obey the Order: and this Recognizance any one Justice of peace may take. 39. Eliz. 16.

Any one Justice may give the Surveyors of the high-wayes upon the new Ordinance their oath thus, you shall swear that you shall diligently and faithfully execute the office of Surveyor of High wayes within the parish of D. for this year ensuing, and faithfully account for all monies which shall come to your hands by virtue of the said office.

Peace, Oath. Constable,

Any one Juffice of peace may give the Conftable his Oath. Which must be thus.

Ton

You shall swear that you shall well and truly exe- Cha.44 cute the Office of High-Constable of and within the Hundred of H. or of Petit Constable for and within the Parish of S.S. and Liberties thereof, to the best of your skil and power, until another be chosen in your room, or yourshall be otherwise difcharged by Order of Law.

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There must be two, Quorum unus, to give the Sheriffs and Sheriff his oath for his office, and this they may Bailins. do ex officio, and without any Commission. So al ofto give the oath to his Bailiffs of Liberties, known Bailiffs Deputies, and Clarks, that shall have to do in returning of any Jury, or execution of any Processe, who ought to be sworn; otherwife of special Bailiffs. 27. Eli. 12. Dalt. 7. P. 166.

Any two Justices may give oath to the Colle- Collectors ctors of the Sheriffs Amercements for his Coun- of Amerce ty Court, that they shall collect no more then due. Dalt. 7. P. 166.

Any Justice may give him an Oath that is Him that is robbed, and examine him whether he knew him robbed. that did the robbery, and if he do, he must take a Recognizance of forty pound of him, to profecute upon 27. Eliz. 13.

Any one Justice of Peace may compell him About them that hath the plague to keep in, and if after that have command he refuse, albeit he have not the fore the plague. upon him, he may punish him as a Vagabond, Vagabond, and bind him for a year to the Good Behaviour. And one Justice may also according to Rate. his difcretion, appoint Searchers, Watchmen, and keepers,&c, But there must be two to set a Sect. 23. Rate for the relief of the persons infected. See Rate. 1. Jac. 31.21. Jac. 28.

Any one Justice of peace may enter into any game:. house

About uns lawfull

Commitment,

Chap. 44 house within or without any Liberties, that is suspect to have dicing, carding, or any other unlawfull games used in it, and upon view thereof, arrest and imprison him that keepeth them (except ye have the keepers of the liberties license. And he may arrest and imprison all Artificers, Husbandmen, Labourers, Mariners, Fishermen, Watermen, Apprentices, and servants, and others whatfoever, that play at any unlawfull games at any time, or in any place, but at Christmas, or in their own, or Masters houses, garden, and orchard, and by their Masters license. And any men that shall play at Bowls in any place, but his own garden or orchard, untill they give Sureties in fuch a fum as the Juffice of peace shall think fit, that they will play no more.33. H.8,9.3 . Eli.5.

About Ars chery.

Any one Justice of peace may according to his discretion, examine all persons that have not Bowes, Shafts and Arrowes, according to the Statute of 33.H.8,9. But the offence it feems, if it be punished, must be punished in a Sessions.

Selsions About Guns

Any one Justice of peace upon examination (which must be as it seems of the party) and proof, may commit to Gaol him that is found to fhoot in, carry, keep, use, or have in his house, or elfe where, any Guns, Croffe bows, Dags, Pistols, or stone-bowes, contrary to 33. H.8. till he pay his ten pounds; the Estreat whereof he must send into the Exchequer. Dal 7. P.c. 24.

Commit. ment

> But there must be two Justices of peace to commit for three months without bail, unleffe he pay twenty shillings a Hare, &c. he shall kill; forty shillings for a Grey hound, setting Dog, or Net, and give bond of twenty pound, with two fureties, within a month of his commit-

Hares.

Commit: ment,

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ment, not to effend again, him that shall shoot Cha. 44 at, or kill with gun or bow, any Patridge, Phea- Pheafants, fant, House-dove, Pigeon, Hearn, Mallard, Partridges Duck, Teal, or any fuch Fowl, or any Hare; or &c. shall take or kill any Patridge, Pheasant, Housedove or Pigeon, with any Engine or instrument, or take or deftroy the egges of Pheafants, Partridge or Swan, or trace any Hare in the snow, or take it with any cords, or keep any Grey-hound, Greyfetting Dog or Net, being proved by confessi- hound, Setting dogs on or oath of two witnesses.

Any two Justices of peace may by 1. Fac. 27. & 7. Jac. 21. hear and determine out of Seffions, any offences for deftroying Patridges and Pheafants, &c. But he that is convict upon the 23. Eliz. 10. for taking pheafants and Partridges in the night, may be bound by any one Justice of peace not to offend fo again in two years.

And two Justices of peace may give warrant warrant to to fearch the houses of persons suspect, and difa- search. bled to keep fetting dogs, or nets, and to kill the dogs, and cut the nets in pieces that they find,

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Also any one Justice of peace may examine him that killeth Patridges or Pheasants in the night, and hath not been punished for it, and take bond for his appearance at the next gener- Bind overall Seffions of the peace to answer the offence, upon 23. Eli.10.

He that hath free Warren, Mannor, or free Land of forty pounds, or leafe for Life of fourscore pounds per annum, clearly in his own or Wives right, or four hundred pounds goods or chattels, may take Patridges or Pheafants in his

own land, by 7 Fac. 11.

Nets.

Chap.44 About Haws king. Bind over.

Any one Justice of Peace may examine the offences about Hawking or Hunting with Spaniels in corn, &c. and may bind over the offenders with good Sureties, and Witnesses to appear at the next Quarter Seffions, and on refu-Commitment fall fend to Gaol, upon 23 Eliz. 10.67 7 7ac. 11.

Dalt 9. P.ch.25.

Recognia zace.

Commit ment,

Commits

ment.

And so upon proof of two witnesses he may take a Recognizance of fuch as take Partridges with setting dogges or nets, upon 7 Fac. there must be two Justices of peace that must within fix moneths of the offence, commit to Gaol a moneth without Bail, unlesse hee forthwith pay forty shillings a time, and twenty shillings a pheasant or partridge, him that by confession or oath of two Witnesses is proved to hawk or hunt between the first of July, and last of August, 7 Jac. 11. So they may punish them that sell, or buy to sell again, any Deer, Hare, Pheasant, or Partridge, upon 1 Fac. 27. 21 74c.28. So there must be two upon confession, or oath of one witnesse to fend to Gaol for three moneths without bail, unlesse he pay forthwith to the Churchwardens or overfeers of the poor, twenty shillings a pheafant, or partridge, him that takes, kils or destroys any pheafant or partridge, with fetting Dogs, Nets, or other Engines. Yet one Justice may take a Recognizance of twenty pounds of such an offender, that he shall not offend again, 7 7ac. 11. He that is punished upon this Law, must not be punished by any other Statute.

About hunting.

War ant,

Any one Justice of peace upon Information that any one hath hunted Deer or Gonies in the night disguised, may send his warrant to the Sheriff. to

Sheriff, or other Officer, to bring them before Chap. 44 him ot be examined. ) And finding cause, may Bind over. bind him to the Good Behaviour. But there must be two Justices of peace to commit to Commits Gaol them that trace and kil Hares, upon I Jac, ment 27. Dalt. 7. P.ch. 29.

Every Justice of peace in the Lent time, may Sea. 24. enter into and fearch all Victualing-houses for dayes. flesh: and if he find any till three dayes be- search. fore Easter, seize it, and give it to the prisoners, or poor, at his discretion, 1 7ac. 29. 5 Eliz.5...

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Any Justice of peace, Sheriff, and Escheator, Self. 25. may feize all the goods of any Out-landish per-About an fon, calling himself an Egyptian, within one moneth after his arrivall into this Realm, and keep half to his own use, and for the rest must account to the Exchequer. But after the moneth, the King will have all, 22 H. 8. 10 But fome doubt of this Law, and See Dalt 7.P. chap. 19.

Three Juffices may out of Sessions call Minifters and Schoolmafters before them, that have houses, Chancels and Church yards belonging to them that are in decay, and order them to amend them, and if they do not, they may levie fo much by diffresse and sale of their goods as

to do it. Ord. 39. Aug. 1654.

When a Recovery is had against a Hundred, have a conand execution made on fome persons therein, tribution for any two Justices lying neer the place, Quorum any of the unus, may fet a Rate upon the parishes of the Hundred whole Hundred, as well within as without Li- charged with the berties, upon the distribution thereof by the whole exes Constables cution.

Set a rate to

Chap.45

Constables on every Inhabitant, force the levying and bringing in thereof to them by distresse and sale of goods, to be done by the Constables and Justices, having received it, they are to see that the parties grieved have it.

So also they may do upon another Hundred where it is charged with a moity of such a charge upon a Hundred for any defect or neglect of pursuit of hue and cry, &c. towards the case of the Hundred, first charged, 27

Eliz.13.

Any one Justice may upon proof, by oath of two Witnesses, or other evidence before him, that any Vintner, Inkeeper, Victualer, Alehouse-keeper, or other person that doth retail, or fell Beer or Ale, that they do brew their own Beer, not having by himself or some other, first made a composition, and given security to the Sub-commissioners to pay his Excise, he may by his Warrant cause to be levied upon him by diffreffe and fale of goods, and then to be paid to the Sub-commissioners forty shillings for the first offence, three pound for the second offence, and for the third offence imprison him till he give security never to do so again, All. 14. Aug. 1649. And the new Ordinance.

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#### CHAP. XLV.

### Of Recognizances.

A S touching this point of Recognizances, The power these things are to be known. I Justices and dury of of Peace do in some cases take Recognizances in congruity to other things; as for the Peace, and good behaviour, and the like. And they sions, have power given to them by divers Statutes to bind over men to appear at Sessions, Assignment, Eindover, &c. and to take sureties for other causes. And some think, where they have power to require a man to do a thing, they may in congruity bind the party to do it, and if he resule send him to Gaol. Dalt. J. P. ch. 16. But take heed of this.

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2 One Justice of, the Peace may take Recognizances for the peace or good Behaviour, for mens appearing at the Assizes, Sessions, &c. to give Evidence, of such as keep or use unlawfull games, that they shall do so no more: of such as are suspect to use Logwood in Dying, and their witnesses: of such as take partridges, and Hawkers in Corn, that they shall appear at Quarter Sessions: of such as are convict for taking or killing of Pheasants, Partridges, &c. that they shall do so no more: of the Master that shall abuse his Apprentice, to appear at Quarter Sessions.

But there must be two to take Recognizan-

Chap. 46 ces of Alehouse-keepers: to bail a prisoner bailable for Felony: to bind Over feers of Cloth.

Bind over.

luftices of peace (as it feems) cannot bind over an offender against a penall Law, referred to their conusance (but not within the Commission of the peace, nor committed to the power of any Justice of peace) except it be in a speciall case, where the Statute it self doth enable them thereunto, as 5 Eliz. 4 1 Ed. 6. I. Or the party is indicted for the offence.

Recognia zance.

A Supersedeas made by a Justice of peace, and returned under his feal, is a sufficient record to prove a Recognizance taken for the peace, and warrant to call the party bound, and if he make the default, record the fame Lamb. 9. P. 97.

Appearance, 5 If one be bound by a Recognizance, he must appear according to the tenor of the same, and if a Certiorari come to remove it before the day, this will discharge it. Dalt. 7.P. 237. Lam. 7. P. 336.386.

6 The Justices of the peace must certifie all the Recognizances they take, to the next

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Affizes or Sellions, 3 & 6 Ed.6 ch.25.

#### CHAP. XLVI.

### Of a Supersedeas.

The Office His Writ is a command to flay the doing and duty of of that which in appearance were to be Justices of Peace herein done, were it not for the cause whereupon the out of quar- Writ is granted. As if one swear and defire ter Session. the peace, the Justice cannot deny it; but if the

the party be formerly bound elsewhere, this Chap. 46 Writ lieth to flay the Justices from binding the party. And it comes either from the Chancery, or Kings Bench, or from one or more Tuffices of Peace.

2 No Supersededs that comes out of the upper Bench, or Chancery, is to be allowed by the Inflices of Peace, but what is granted upon publike motion in the Court whence it iffues; Motion in and good bail there given; See 21 Jac. 8. And Court, unleffe it appear that the processe is prosecuted against the defirer of the Superfedeas, bona fide, by some grieved in the Court, whence it is to

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3 He that doth take Sureties, ex officie, after a Warrant out, and thereupon grant a Superfedeas, must be fure he do it according to the Justice of peace his Warrant fent out. Lamb. 7. P. 96. Dalt. 7. P. 172. Where he hath taken Sureties of the peace or good behaviour, either, of his own authority, or a man brought to him by the Warrant of another Justice of Peace, he may grant this Warrant to all other Justices of peace, shewing that he hath given fureties, &c.

4 Albeit it be good to recite the fureties names, and the fum wherein he is bound, yet

this is not necessary, 2 H.7.1.

5 If any Officer have any Warrant from a Justice of peace to arrest a man to find sureties, and shall after receive this Writ from the upper Bench, Chancery, or any Justice of the Kings Bench, or Justice of peace of the County, and yet he urge the party to find the fureties, he may refuse to give it, and if he arrest him, have Falle imerifalle imprisonment.

6 This

Chap.47

This doth discharge the Justice of peace Warrant to Irequire surely of the peace, or good behaviour. If therefore the Justice receive such command from above, and he have not sent his Warrant, he must forbear to send it; if he have sent it, he must supersede it.

7 If a justice or other Officer will not for bear after they have received it from Chancery or upper Beach, he may be fined and imprisoned for his contempt: Yea so it is, albeit the superfeders be illegall, Dalt. J. P. f. 207, 208.

8 If it be feat to the Justices and Sheriff, the Justice may keep the Writs and deliver the La-

bel to the Sheriff.

An Alius Capius, or Exigent awarded against one indicted of a trespusse, or the like, upon surety found in the Chancery, may be stayed from thence, or the Sheriff commanded not to arrest him; or if he be arrested, to take sureties of him and let him go. So when he hath given sureties de fine assidende, two Iustices, Quorum unus, (some say one Tustice) may grant a Superfedeas, Lamb. J.P. 526,527.

Certiorari.

to The Certificati to remove the record, is in it felf a Superfedeas, but a man may have a Superfedeas to the Sheriff also, Lamb. 7 P. 515.

#### CHAP. XLVII.

The Office and duty of the inftices of peace herein out of Quarter Se; sions.

Of a Supplicavit.

THIS Writ is a command out of the Chancery or upper Bench, to one or more Justices of the peace to binde fome per-

fon

Commits

fon to the Peace or good Behaviour. For Chap.48 which see Dalt J. P. 226, 227. And know these things.

1. He only to whom it is delivered must exe-

cute it.

2. The Juffice that receiveth the Writ is to make his warrant to the Constable, or other indifferent person: and if he refuse to find sureties, Warrant, to carry him to prison. ment.

3. The party attached must be bound before him that fent out the Warrant, and none other.

4. The Juftice is to execute it as it directeth.

5. If the fum be left to his discretion, it is good to fet a good fum.

6. After furcties raken the Justice may make Superfedeas,

a Supersedeas.

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7. The luftice need not return it, nor make a certificate till'a Certiorari come. Dalt J.P. 186. 187.

#### CHAP. XLVIII.

### Of a Mittimus.

He Mittimus is the Warrant by which the The power prisoner is sent to the Gaol,&c. and duty of Touching which, these things are to be the suffices of Peace out known. of Quarter

1. This inftrument must be in writing and under hand and feal. But if the commitment be by order of Sessions, there needs no such solemnities.

2. The S 2

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2. The names of the party committed, the time of making it, the cause of the commitment must be set down and expressed in it, as for Treason, Felonie, suspition thereof, that it may appear whether the prisoner be bailable or not, and that those that have the custodie of him may take care of him; for if the cause be fer down to be treason or Felonie, it is so in the Officer to fuffer him willingly to escape whether he be guiltie or not, otherwise if no cause be expressed, it is no offence. be a commitment to the house of correction onely, the Mittimus must expresse the cause, as because he is an idle person, or an Inordinate person, or the like. Cook. 2 part. Iust . 52. 4. If the Commitment be without Bail or main-prife and it expresse the cause which is a case wherein he is bailable by Law, it feems the other Justices of peace may bail him.

#### CHAP. XLIX.

Of a Cerciorari and Habeas Corpus.

A Stouching these Writts (which are to remove records and prisoners before the the Justices of Peace) these things in reference to the Office of the Justice of Peace are to be known. These writts are obtained by those that are indited, or prosecuted before the Justices of peace, or out of the Sessions, and are sent to the Justices to remove the records and prison-

prisoners before them into a higher Court, and Cha 49 before higher Judges, to the end that by traverse, demurrer or otherwise, the matter may be ended there. And sometime to send the Record, and sometimes to fend the Tenor of the Record onely. And it is good though it do not mention any -cause of removall. Lamb. I. P.414. 2. A Justice whiles he is in his office may without a Writt fend up an Indictment taken before him . but when he is out of his office he cannot fend without a Writ to remove it. 3. This may be had out of the Chancery, upper Bench, or common Bench. 4. It may be directed to the Court of the Seffions, or to all, or to any one of the Juffices of peace, or other officer. 5. This must be obeyed if it be duely granted according to the Tenor of it, or otherwise an alias pluries, and at last an Attachment or Suppena will iffue forth against the Justices or officer for their contempt. And yet if any Bill of Indiament for Ryot, forcible entry affault, or battery found before the Juffices at their quarter Sessions, be fent for, and the Writ gotten out at the suite of the party endicted, the Justices may refuse to allow it, unlesse the Writ be delivered in open Court at a Quarter Sessions, and the partie Indicted be bound with fuch fureties as the Juffices shall think fit in ten pound to the profecutor, to pay him within a moneth after the partie is convict, fuch costs, and damages as the Justice of peace shall set down, Stat. 21. Jac. 8. And if a Writ come to remove an Indictment, presentment, or other proceedings touching High-wayes, causie-ways, or Bridges, except it be in a questi-

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## 262 Of a Cerciorari and Habeas Corpus.

Cha.49

on between County, and County, the Juffices may refuse to allow it by the new Ordinance of 21. March 1654. And in these cases they may proceed to Tryall notwithstanding this Writ. Bur it is conceived that an Indictment of forcible detainer, may be removed notwithstanding. fo also if the proceedings be on any law for buying corn with intent to fell it in flower, for felling of wine, Beere, Ale, flesh, fish, falt, Butter, Cheefe, or dead viduall, it must not be removed. All. 23. 6. October. 1650. Soif it be about a challenges or fighting a duell. Ord. June 1654. 6. No Writ of Habeas Cortus or Cerciovarie to remove a prisoner, or a Recognizance ought to be granted unleffe the hand of the chief Justice, or in his absence of one of the Indges of the Court whence it comes, be to it. But if it be granted otherwise, the Writ is good and must be obeyed. 1. 2. Ph. M. ch. 13. 7. If there be any variance between the Record, that is before the Juffices, and the Writ fent to remove it, the Justice is not bound to fend it. 8. If the Writ command the fending up of an Indictment against A. and there be others indited in the same Indictment, he need not mention any of the rest in the Certificate. 6. Ed. 4.5. 9. If the Writ be brought and duely delivered in the Record must be fent up although the profecutor never call for it: for, as fome fay, this in it felf is a Supersedeas. But the profecutor may also have a Supersedeas, it he will, out of the same Court whence he hath his Cerciorgri or Habens Corpus, F N. B. 227. 1. H. 7. 10. If the Cereiorari come and be dated before the Inpictment, the inditement, coming in after

after, may and must be removed by it, F 71. Cha.50 Crempt. Dalt Just, 2. H.7. It is not to be fent immediately into the upper Bench by this Writ, but first into the Chancerie, and from thence into the upper Bench by a Mittimus. F N B. 242. Lamb. 591. 12. That which is fent for in Chancerie faith in Chancery, in the upper Bench it is that you fend to us. 13. The Certificare muft certifie, and expresse that which did authorife the Inflices to make the Record, but need not certifie more then the Cercierari requireth. 13.If an Ind Etment to be fent up by a Cerciorari, the Justices must take care how they certifie it, or it may be quashed for infufficiency of Return. Lamb. 7. P. 516.

#### CHAP. L.

### Of the conviction and Tryall of Offenders.

N this these things are to be known. I. An of. The power I fender may be attaint or convict many ways and duty The Attainder or conviction by the common of the Iustia law is for the most part by indictment and a Ju- herein out ry, and cannot be otherwife. For Triall by exa- of Quarter mination, and witneffes, are not allowed but Sel ons. where the Triall is referred to the discretion of indictment, the Instice of peace, or the Statute doth especion. ally authorize him fo to do, as it doth in many cases; for by divers statutes the conviction of an offender may be after divers wayes, and it must

Cha.50

Selsions.

be according to the Statute, & cannot be otherwise. Sometimes it may be before one, sometimes it cannot be before less than two Justices of peace. Sometimes it may be out of any Selsions, sometimes it must be at a private Selsions, and sometimes it cannot be done any where but in the Quarter Selsions. Sometimes it is by the Justices own view or hearing, sometimes it cannot be done but by other proof. But where the Statute doth not direct the way, but say, Justices shall hear and determine, and say not how, or where, as 26. H. 6. 10. 5. El. 9. There it must be by the ordinary way, which is by Indicann. And so it may be also, if the Justice please, where it may be done another way, Dalt. J. P. 7.3. f. 1.93.

2. Some Statutes speak of conviction by inquiry, some by inquiry and examination: some say by inquiry or examination. In all these cafes regularly the suffice of peace is to examine the offenders and witnesses. Dalt. J. P. fol. 191. But if it be by examination only, as 4. Ed. 4.2. Then it seems the offender is to be examined. Young 40. And so it seems may the wirnesses al-

10.21.74c 18.18.Elia 3. .

3. Sometimes the Statutes speak of proof, and then it must be by proof of witnesses only, Dalt. 7.P.f. 191, 192. Sometimes it is by examination

and proof.

4. If the Statute say, by accusation generally, it must be by examination of witnesses upon

oath. Dalt. J.P.f. 191,192.

5. Sometimes the Statute directs the Conviction to be by two witnesses, or confession: Cometimes by witnesses or view, sometimes by view or hearing only, sometimes by two witnesses

neffes

nesses, view or consession; sometimes by view Cha. 5 t or indictment, sometimes by view or inquiry: sometimes by one witnesses, view, or consession; sometimes by one witnesses, or view, and after consession of an Ossender by his own Oath; sometimes by one witnesse, or consession; sometimes by view or information; sometimes by proof of one witnesse; sometimes by proof of two witnesses; in all cases the direction of the Statute is to be followed. If the Statute speak of witnesses, it cannot be lesse then two (except the Triall be by Jury,) where happily one may serve, Dalt. J. P. 192.

It is convenient in all cases, especially where the conviction is by oath of witnesses alone, that the offender be heard before he be convicted. But this, it seems, is not necessary, Dalt.

7.P.191. See more in ch 2 of this book.

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#### CHAP. LI.

### Cantions to Justices of Peace.

Hey are to take care of their carriage; for they may be punished as any other man, and that in this Court of the Quarter Sessions sessions, also, 4. H.7.12. Dalt. J. P. ch 20. especially in these particulars.

I. Where they have power to hear and determine out of Sessions, by their own view, confession of the offender, or proof of witnesses, these things must be heeded: I. To make and

keep

keep by them a Record of all the proceedings, Chap. 51 especially if there be a Commitment Record.

2. If the offender be to be fined, then to Estrear it, and send it into the Exchequer, Dalt.

7.P f.190.

Certificate of Recogni. Lances.

Effreat.

3. They must return all their Recognizances for the keeping of the peace, and otherwise, at the next Seffions of the peace for the County,5. & 6.Ed.6.15.3.H.7.1.

Certificate of an oath of a Papilt,

4. He that takes the oath and submission of a Priest or Jesuit within three dayes after his landing in England, and doth not certifie it in three moneths in Chancery, loseth 100 pound, by 27:

Eliz.2.

Riots Concealment. Bail. Feions. Recognizances. Certificate.

5. They must take heed of all neglects which are penall to them; as not to execute the Statutes against Riots and forcible Entries, upon notice; not to discover Treason, Seminaries, Agaus Dei, foc. to bail fuch as are not bailable, to discharge Felons, to take any Recognizances otherwise then in the Lord Protectors Name, not to certifie Recognizances at the next Assizes or Sessions, not to meet at Easter Sessions, not to certifie the examination of the Sheriff, and his Bailiffs in entring plaints, &c. into the Exchethe offences which the surveyors of the High-

Presentment quer, not to present at the next quarter Sessions, wayes have prefented to them. Dalt. 7.P.ch.20. fol. 73.11. H.7.15.13. Eliz. 2.29. Eliz. 2.

He forfeits an hundred pounds if he be faulty in the execution of the Statute against Riots, 13. H.4.7.17. R:2.8. And may be punished for neglect of that against forcible Entry. Dalt. 3.P.f.72. Twenty pound, if he certifie not the Juries fault, upon 19.H.7.13. Imprisonment,

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if he take a Recognizance in his own name, 33. Chap. 52 H. 8.38. Such fine as the Iustices of Gaol-Delivery shall set down, if he take bail contrary to Law, or do not certifie the bail and the examination, 1 & 2 P. & M. 13. Five pounds, if he do not his duty for the poor, upon 14 Eliz. 5.

And the Inflices of Affize may punish the defaults of the Inflices of peace, 2 R.3.10.

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#### CHAP. LII.

## The remard of Justices of Peace.

Hey are by their Oaths to take nothing but Fees. 1 of the State, and what is given them by the Statutes, which are their Wages for their coming, and charges at Quarter Seffions, which the Sheriff is to pay them, by 14 R.2.11. 12 R. Sheriff. 2.10, out of the fines and Amercements, Eliz. And they are to have four fhillings a day a piece, and their Clerks two shillings for this And they are to have five shillings a piece for every day, not exceeding three, they fit upon the execution of the Statute of Labourers, by 5 Eliz. 4. They are to have the tenth of the forfeiture of him that doth offend against the Statutes by Deer-hayes, Buck-stals and stalking, 3 Ed 6.2. The one half of the forfeiture of him that being by them appointed, refuseth to be an Over-seer of Cloth, 39 Eliz. 20. And a third part of the faulty Cloth, upon 3 Ed 6.2 And the one half of the goods of an Egyptian seized, by 22 H.8.10. Twelve pence upon

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upon the Involment of every Deed of Land, of forty shillings per annum; and two shillings fix pence if the Land be above forty shillings a year, 27 H.8.16.

The State is to bear their charge in the execution of the Statutes of of 13 H.4.7. 2 H.5.8. about Riots, and they are to receive it from the Sheriff out of the Fines. Dalt. 7.P.f. 141.

Forcible Entry, The party grieved and profecuted, is to bear their charges in execution of the Statutes of forcible Entry, of 8 H.6.9.

Pleading.

Treble das

If they be fued for any thing done in the execution of their Office, they may plead the generall iffue, and give the matter in evidence. And if they be quit, they shall have treble damages, 7. Jac 5. All 23.020b.1650.

They cannot be fued for any thing done in their Office out of their County, 21 74c.12.

Whatfoever they shall do of record, or ignorantly, and for want of knowledge they shall not be punished for it: nor for matters by them judicially done, 2 R. 2.10.

This must be understood in their Courts of

Justice.

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Speciall power of Iuffices in some Counties.

In Norfolk 27 Eliz.24.
In Suffex 27 Eliz.9.
In Surrey 27 Eliz.9.
In Kent 27 Eliz.9.

or an Over-troit. Cloth, so Eligso,
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## The Second Part of

# THE OFFICE

OF THE

Countrey Justice of Peace.

Wherein is plainly fet down,

Their Power and Duty

IN THE

SESSIONS.

The third Edition corrected and enlarged.

BY

William Sheppard Esquire.

PSAL. 82.1.

God ftandeth in the Congregation of the mighty, he judgeth among the gods.

PROV. 21. 2.

To do Justice and Judgement is more acceptable to the Lord then Sacrifice.

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LONDON,

Printed for W. Lee, D. Pakeman, and G. Bedell. 1655.

## The Second Part of HAO. HHT 10

Country Juffice of Peace, hair Power and Din

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# The Chapters of the Second Book.

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of the Seffions.

Of the Judges there ( which he Justices of Peace.)

Of the power of the Justices of Peace in the Quarter Sessions.

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Some Indistments used in she Sessions of the
Justices of Peace.

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CHAP.

## The Second Part of the Office of the Countrey Tuffice of Peace.

CHAP, I.

Of the Seffions.

E Sessions is a Court where the Justices Part II. of the Peace do fit for the execution of seffions what. their office.

There are two kindes of Seffions ; the general Seff. I. or Quarter Sessions, is that Court or fitting How many wherein all the Justices of the Peace do fit toge- kindes. ther for the generall execution of their authority special and commission over all their limits; these are called quarter Seffions, because they are kept quarterly, four times in the year, they are also called open Sessions, because they are kept in an open place; and principall Seffions, because herein the authority of the Justice of Peace doth principally appear. The speciall or privy Sessions, which is a firting procured upon some special occasion. not for the generall lervice of the commission, and commonly in a private way or place, for the more speedy execution of Justice, in some special cales ; as for the inquiry of riot, or forcible entry, placing of fervants, or the like. It is called nion

Chap. 1.

Servants.

Part II. alfo a Statute Seffions, being enjoyned by certain Statutes, that they thould Heer at certain times in every Hundred, and that the Confrables of the Hundred do come thirher, and that Mafters and Servants do appear for the deciding of diffe-

renees between them; and the bestowing of people that are fit to ferve and refuse, or cannot get Mafters in service. And these are of

Quorum,

speciall use to deliver Goals of unruly servants, Geale delivery perry thieves and others which get no good by lying there. But it is held if there be one Ju-Rice of the Quorum prefent, they may hear and determine any article within the commission of the Peace at this Sessions as well as at the Quarter-Seffions, and accordingly they may give in charge what shall feem good to them; So alfo upon Statutes as give them a general power of enquiry withour restraint to the Sestions, as that Statute of 25 of H. 8.13. of fheep, and upon all Statutes that do use the word Seffions, in differently without adding, generall or speciall. as 5 Ed.6. c.4. of fighting in a Church-yard or Church, 14 Hen. 8. ch. 11. 19 Hen. 7. C.11. of hunring, 5 Eliz. ch. 13. of linnen cloth, 2. & 3. Pb. & M. ch.7. of Fairs and Marke:s and others. But not of other Statutes whole enquiry is to be at the Quarrer-Seffions, 14 H. 7. 8. 27. H.8.c.7. 14 H.7,8,14. H.6. c.4. 5 Eliz. ch.4. Lam. ch. 19.20. It feems therefore to be a mort apt division, thus; The Sessions is either open or private: The open is either general as Quar ter Seffions; or Special as other Seffions at other times. The private, is that which is done in s private way, for some particular service. Or rhus, Sessions is either Generall, for all the work of Tuffices

Justices of Peace in generall; Special, i. for some Part II. especiall services; or particular, i. for some par- Chap. 1. riular work.

The general Sessions of the peace must be held sest. 2. four times a year at least (more if need be) at the The times times it is usually held once in every quarter (to

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Sr. Michael.
The Epiphany.
The close of Easter.
The translation of Saint
Thomas the Martyr being
the seventh of July,

It is Daltons opinion that the weeks wherein the Feafts happen must be first ended before the Seffions can begin. But herein it is fafest to follow the custome of the place, Dal. Just. of the Peace. 16. And thus it must be holden through the Realm. And it cannot well be kept at any other time; the Justices were bound by their Oaths to keep at this time, but this clause is now omitted, it may be continued, one, two, or three daies, or more, as there is occasion of bufinesse to dif. parch; for the time of keeping the Seffions for labourers, it may be twice a year, between Michaelmas and Chrits Nativity. and between the Annunciation of the Virgin Mary, and the Nativity of S. Fohn Baptift. But any other Speciall Seffions may be holden at any time when please the Justices to appoint. 33 H. 8. 12. R. 2. 10. ch. 10. 37. H.8. cb.y. 2.H. 5. cb.4. Lamb. 597.623. 36. Ed. 3. ch. 12. 14 H. 6. ch. 4. 3. If the Sessions be held at any other time, it feems their acts are good, and the Justices only punishable, for the Statutes are not in the negative ( and not as any other Of the Judges there

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Part II, other time) it ought not to be done, but done is of Chap. I. force.

Sect.3.

It feems it may be kept in any place of the County, the most apt place is the most eminent place of the County, the principall and chief Towns, and where it hath been used to be held; See the Statute of 14. H.6.ch.3.

### CHAP, II.

Of the Judges there which be Justices of Peace.

THE Judges in the Generall or Quarter Sef-

Seff. I.
The Judges
in these Courts.

Quomm.

fions, and in the speciall or particular Seffions are the same, being the Justices of the Peace of the County, who are appointed by the Commission to attend the peace of their County. And amongst these some are for special respects made of the Quorum, because some bufinelle of importance may not be done without the presence, or affent of them, or one of them. They are so called because the Commission is thus, Of which ABC we will to be one. And the most eminent man amongst these is commonly the Custos oftulorum that keepeth all'the Records, Thefe are all of them Judges of Record, and have a judiciall power, and therefore cannot depute any under them to execute their office. And the Acts done before them are Records against the truth whereof no Averment lieth. For in some cases it is of greater credit then any Presentment by a Grand Jury, and it is not traversable. This Record, fitting the Court, is in the breast of the Judge,

Records.

cilies

and amendable; but after it is entred in the Part II. Rols, it is not to be altered. And hence it is Chap. 2. that a Superfedeas of the peace made by one Ju- Superledeas. flice of Peace under his seal, brought into the Court, is a sufficient record, to prove that there is a recognizance of the peace taken by the fame Resognizance, Justice of peace, and warrant enough to call the party bound thereupon, and if he make default

to record it. Lamb. 1 . Book cb. 13.

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The general Sedions cannot be kept with leffe then two Justices of the Peace, and one of theie must be of the Querum. And in cases where more then two are necessary, to do any thing out Quorum. of Seffions, there it cannot be done by fewer in Jufticess the Sessions. And albeit one may do many things out of Sessions, yet the same thing if it be done as an act of the Court, may not be done at the Quarter Sessions with fewer then two Iustices of the peace, and one of them of the Querum. But the speciall or particular Sessions may be kept by one or more Justices of peace, according to the nature of the work there done, for as to the execution of all their power given them by their Commission, and all such Acts of Parliament is require two Juftices of Peace, Querum unm, there they must have two such Iustices. But where power is given to two other Inflices of peace, as to fend to the house of correction such is will not work, or the like : or to one Iustice of peace, as in a forcible entry, or the like; there the Seffions may be kept by fuch luftices of peace, and is good for these Acts. And in these Courts their power is joynt, yet so, that if one alone see a Rior, he alone may record it, and imprison the parly. Fitz Juft.of Peace, 8,

Part II. Chap. 3.

CHAP, III.

Of the Power of the Justices of Peace in the Quarter Seffions.

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Seat. I. The power and duty of the Juin the quarter Seifions, and what may be done there. Peace.

LI the power of the Justices of Peace, is derived unto them two waies. I. By the faces of Peace Commission of the Peace. 2. By divers Acts of Parliament. By both which they have a power or jurisdiction, and a power of Correction, and all the power which the Ancient Confervators of the Peace had, and much more. They are to labour to keep the Peace, withhold men from, and suppresse injurious force and violence against mens persons, goods or possessions, reftrain offen ders, rioters, and all other barreters. their duty ih the Quarter Sessions, in general this is to be known, That all that they may do outo the Seffigns, or at any other Seffions, they may do at this Sessions, and much more, for even Quarter Sessions is a Sessions, though ever other Seffions be not a Quarter-Seffions, Sa therefore Infra, what may be done by special Seffions, or out of Seffions. Herein they my and must endeavour to keep the Peace and all the Ordinances and Statutes made for the conferme tion thereof, and for the quiet government of the Peace breakers, people, hear and determine at the keepers of the Liberties suit, all trespasses against the peace an many felonies, and inflict punishment according to law, purlue, take, arreft, and chaftife offendes Rioters and all other Barretors according to the offence, the laws, and their own discretion ; tak furcties of the Peace of them that break the peace

Rioters. Felons.

and good behaviour of them that be not of good part II. fame, or that they suspect. So they may and must Chap. 3. fee, the Statutes for hue and cry after felons, a- surety of the gainft murtherers, robbers, felons, night. walk- Peace, or good ers, affrayers, thole that wear armour in terrorem, behaviour, that make Riges, forcible entries, Robberies, that are come from beyond Sea, and wander about, and live idlely here, and all the Statutes against force and violence, against the peace, put in execution. And in cases where they do suspect, they may arrest, examine, and if they fee cause imprison. See Commission of the Peace, 18 Ed. 2. Stat. 2. cb.2. 1 Ed. 3. 15.34. Ed. 3.1. 4 H. 7.12. 33 H. 8. 10. 37 H. 8. 7. More particular-

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ly. First, They may enquire and take Indiaments sett. 2. of all Treason, and misprisson of Treason, but Treason.

cannot proceed to hear and determine them.

Secondly, They may in this Court hear and de Felonies. termine all felonies by the common law, and some think that the Justices in this Court may determine any felony, great or fmall, and deliver the Goal of all Felons. But this is much doubted by others, and held that they cannot deliver fulpeded persons by Proclamation. For if an Indictment be against a man for any thing above petit Larceny, and the Grand Jury finde an Ignoramus upon it, the Sessions connot deliver him. Resolved by the Judges temp. Car. Reg. 2. but they must binde him over to the Assizes there to be sequitted, Fitz. f. P. 14. The most common ndes practife theretore is, that all the prisoners that are in question for any felony above petit Larcea tak peace My, are referred to the Goale delivery, for albeit it be out of question, that for such felonies as are

Part II. so by the common Law, and by any Statue, the Iustices of Peace in this Court have power to Chap. 3. hear and determine, as such as are turned over by Sheriffs out of their turn; and others, that in frianelle they may hear and determine it, yet this is not usuall. 1 Ed. 4.2. But there are some felonies, as upon 3 H.7.18 33 H. 6.1. And the 8 H.6. 12, for imbelling, Record, and 5 Eliz. 4. for forging of Deeds, that they have not to doe with in this Court. So, where one is smitten, or take goods in one County and die, or carry the goods into another County, or is indicted as an Accessary to a principal in another County, in thele cales, and fuch like, as where there is an indichment taken before any other, they cannot hear and determine these felonies, for they are Inflices only of this County, and can try Indiaments only taken before themselves. And if Indiaments be taken before them of fuch things at whereof they have not conusance, they are void, Dalt. Fuft. P.65.

Seff.3. Trefpafesi Thirdly, They may hear and determine all trespasses against the publike peace.

Fourthly, They may enquire by Iury of all offences against the common, or Statute law, belonging to their conusance.

Fiftly, They may take view of all presentments and Indiaments, made or found by the Iury.

Sixtly, They may grant out process against the offenders, to cause them to come in to answer.

Seventhly, They may take and try such offenders upon any former or present Indictment of Presentment, before themselves, or any other Indices of Peace there after the offenders do appear.

Eighthly,

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Eighthly, they may upon conviction give judg. Part II. ment of Fine Amercement, or otherwile, as the Chap. 3. cause deserves, and inflict punishment, and see ex. ecution done according to the laws. And all this they may do in their other Sessions.

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Ninthly, and they may in this Court also hear and determine all offences, which by any Statute law are referred to their determination. here it is to be observed, that many Statutes give the Iustices of Peace power to do some things in their Quarter Sessions, which they do not give them power to do in their special or private Seffions. For when a Statute gives them power to hear and determine, and doth not fay where, nor how, or gives them power to do it in their Seffi- Quarter semons, and faith not what Seffions, there it may be done at any Seffions. But where a Statute Sed 4. gives power to the Quarter Sessions, as 32 H. 8. 13. about horses, 43. Eliq. 3. about poor, 5. & About horses. 6.Ed. 6.25. about the enquiry of the breach of a Poor. Recognizance. Recognizance, 4. Fac. 5. about drunkennesse, 5 & 6 Drunkenneis. Ed. 6.21. fas. 22. about ingroffing, 1 Ed. 6.1. Ingroffing about sending a Writ to the Bishop, and many others. Or to the Generall Quarter Seffions, as 5. Eliz.9. about Perjury, 4 Fac. 5. about drunken- Perjury. sefle, Ordinance for the Directory and others, or Directory. to the general Sessions, as 2. & 3. Ph.& M.3. about kine and calves. Ordinance for the directory, 4.H.8.7. about Searchers of Pewter, 33 H. 8.1. Kine. about cheating by falle Tokens, erc. I fac. 6. a. Directory. bout rating wages, 39 Eliq. 17. about Souldiers, Pewter. 39 Eliq. 11. about Logwood, 4 H. 8.7. about wages. Pewter and Braffe. See 22 H. 8. 5. about repair- Logwood. ing of Bridges, in these cases the private Sessions Pewter and

annot meddle with it. So also it feems where Bridger,

Chap. 3. Drunkenneffe.

Part II. it is ordinary Seffions, as 4 Fac. 5. about drunkennesse. But for the opening of these things more fully, these things are to be known, That the Justices of the Peace in the Quarter Seffions are enabled to do many things by divers Ads of See after Cha.s. Parliament which muft be pursued, as in these particulars following.

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Sect. 2. About Recttfants and Papifts maintain. ing the autherity of the Pope.

1. They may in this Court enquire of all the offences against the Statute of & Eliz. 1, about the maintaining of the authority of the Pope, and then they must certifie the presentment taken before them into the upper Bench within 40 daies, if it be Term time, or the first day of the next Term Subpæna one hundred pound, and this cannot be in another Seffions.

2. They may here hear and determine all offences, except Treason, and milprision of Frea. fon, against 23 Eliz. for retaining the fubjects

in their due obedience.

Warrant to tike away Arms.

Commitment.

3. Four of the Judges of this Court, in the Court may give warrant to take away from the Recusant all his armour, Gunpowder and munition, other then necessary weapons for their de fence, and to place and maintain them elsewhere at their charge. And if they refuse to deliver them, or oppose it, they forfeit them, and may be imprisoned three moneths without bail by these Judges from this Court, 3 Fac. 5.6. Gin the forfeiture due from a Popish Recusant to him that fueth for it in this Court, 3 740.4.

Mitigation of a Fines

4. If a person indited be convinced or confes the fault, they cannot mitigate the fine fet by Statute; But if he protest his innocency, ya quia non volnis placitare and put himfelf upon the grace of the Court, it may put a leffe Fine, and

## Of their power in particular.

II

ftay the prosecution. Rep. Judges 1633. Part II.
5. They have herein also divers powers given Chap. 4. them by some Statute Laws, which are after set down.

### CHAP. IV.

### Of their powers in particular.

THEY may by Order at this Sessions, Sest. I.

If they see cause, forbid the Transportation About Time of Corn beyond Seas, after the Justices of Assize Corn. and others having authority to do it have first permitted it. 13 Eliq. 13. which they cannot do

in the private Sessions.

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They may at this Sessions, and not at a Sest. 2. private Sessions, upon a motion, make an About the divi-Order to two of the Justices of the Peace, fion of a wood not being of Kin, alliance, councell, or free to either party to set out a sourch part of the Soyle, wherein another hath wood which he in-Orders' tends to cut down, the same being to be set out before the wood is to be cut, 35 H. 8.17. 13 E-13.25.

At this Sessions held next after Michaelmas Sest. 3.
the Custos Rotulorum, or two of the eldest Justices About oversight
of the Quorum must appoint the two that are to Books.
oversee and controll the Sheriffs and his underOfficers Books of Americaments, and this can-

not be done at any other Sessions of the Justices

of Peace, 11 H.7.15.

At the quarter Sessions after Easter the Justices Sest. 4.
of Peace are to set down the prices of all Vessels about the Asof Ale, Sope and Beer that shall be made and the prices of
Vessels.

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Part II. fold out of all Cities and Corporate Towns, 23 Chap. 4. H.8.4.8. Eliq. 9. Dale. I.P. fol. 184. which cannot be done at their speciall Seffions.

Scat. 6. Logwood. Fine. Pollory.

In this court, and not at any special Sessions, About users of the Iustices of Peace may punish by fine of 20.1. and Pillory the deceitful users of Logwood, upon 39 Elig. 11. And he is to be fet in the Pilory in the Market Town, where the offence was done; or if it be out of a Market Town, then in the next Market Town, there to be all Market time, one or more daies as the Iuftices think fit.

Seet. 7. About convert. ing of Ba ley into Malt. Order.

In this Court and not in any other Seffions, they may and must restrain, suppres or discharge the superfluous number of Maltiters in part or in all by 39 Eliq. 16. And also restrain such as they think fit to be restrained from buying of Barley to convert into Malt in part or in all, for fuch time as they shall think fit, which if they obey not, any two Iultices of Peace may punish out of Seffions.

Seft. 8. About buying and fel ing of Butter and Checie,

· Here and not in the other Sessions they may for a time forbid them that buy butter and cheese within their Countrey under pain of the double value of the things upon 3. and 4. Ed. 6. 21. 21 746.22.

Sed .9. About Regrators, Poreftailers.&c.

Forestallers, Regraters, Ingroffers, Badgers, and Drovers are to be punished, hereupon 5 & 6 Ed. 6.14. and 5 Eliz. 12. and this cannot be in the speciall Sessions. See fol.

Se.7.10. About Cloth.

The distribuion of the penalties for want of weight, length, and measure of cloth, two parts to the poor, and one part to the overfeers and fearchers, if it must be at any Sessions, must be at the quarter Seffions, by 21746.18. Sed quere bien. For much may be faid to prove that it may be done out of Seffions.

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Two Searchers of Pewter and Braffe upon 4 H. Part II. 8.7. must be made by the Justices at this Sessions Chap. 4. next after Michaelmas, and they may not be made Sett. II. at any other Seffions. About making

Treasurers of the County stock for relief of the and ordering of poor maimed Souldiers and Mariners, are to be ers of Pewter, cholen at this Quarter Seffions next after Eafter, Seff. 12. and not elsewhere, of sufficient men, for one year, Treasurers of by 43 Eliz. 3. So also the Treasurers for the Bock. relief of the prisoners in the Kings Bench and Marshalfy are to be chosen at the same Quarter Seffions, and not elsewhere, of able men, for one year, upon 43 Eliq. 2. So Treasurers for the relief of maimed Souldiers, and the widdows and orphans of Souldiers, flain in the last wars, are to be chosen at any Quarter Sessions, by the Ordinance of May 1647.

The Collector for the money for relief of the Sea. 13. prisoners in the common Goal, is to be chosen by Collector of the the Iustices in this Court, and not elsewhere, and money for the

may be longer then a year in his office. 14 Eli. 5.

If any common Informer following his fuit by sest. 14. Deputy and not in person, or by his Attorney, Common Inor if he compound with the offender before an-former. fwer, or after, without license of the Court, he must be punished in this Court, and it cannot be

at a private Seffions, 18 Eliz.5.

So if any Clark that receives the Informa- sed. It. tion, do not fee down the day, moneth, and Clerks of year of exhibiting it, or not indorse upon the Courts. processe the Informers Name, and the Statute upon which he goes, 18 Eliz. 15. or make out processe before this be done, the penalty of forty shillings is to be imposed here, and if the Informer have his hand in this, or take reward without

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Part II. without license of one of the Courts at Westminfter or compound without license, he is to be pur Chap. 4. in the Pillory two hours in a Market Town, Pillory. made to pay ten pound fine, and put out of his Fine. office by this Court, and not any other Seffions.

Sed. 16. Officers.

The officers which are made at this Court, and cannot be made by any other Seffions, may not properly be punished for their faults elsewhere, but are to be punished at this Sessions : But for other officers that are makeable, at either of the Seffions, or are equally attendant to both, they may be punished at either of the Sessions.

Sect. 17. Bestter of Bride-

The mafter of the house of correction is to be made by the Justices of Peace at their quarter Seffions, and not elsewhere; and he is to continue for longer then one year, 30 Eliz. 4. 7. F40.4.

As touching shat which concerns the Justices

of Peace, thefe things are to be known.

1. That they may at this quarter Seffions and at no other Seffions, take order, by building a new, or converting an old howse, to prepare and erect House of Corre one or more houses of correction, in what place

&LOH.

of the county they shall think fit. 2. They may there cause them to be affured on whom they please in trust for this use. And this may be done without any License from the Keepers of the Libeities, and may be incorpora-

ted also if they please.

3. They may also take order here to provide a stock of money and other necessaries, as a backfide Mills, Turn cards, to fet Rogues and others to work, for these houses are to be houses of work for the orderly, as well as places of punishment for the disorderly. 4. They

Licenfe.

4. They may here let down orders from time Part I I. to time for the government and ordering of the Chap. 4. house-stock and persons in it, appoint and give orders. 4. allowance to Governors.

7. They may here take order for the sending thicker and punishing of Rogues and other idle Rogues, and disorderly persons, who are not to charge the

country but to live there by their labour.

6. At this Court they may punish or remove the Governour, according to their discretion, for his neglect of his dury, 39 Eliz. 5.4.

7 Fac. 4.

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They are to certifie to the next quarter Sess. 18. ons, and not elsewhere, all the Presentments of High-waies any Supervisors of High-waies brought in to Presentment. them, 5 Eliq. 13. 18 Eliq 9. And this cannot be at the other Sessions. And here the offenders are Fine. to be fined.

Herhat is bound by Recognizance for the good hebaviour for seven years for unlawfull hunting, breaking of the head of Fishponds, or the like, breaking of the head of Fishponds, or the like, upon his acknowledging of his offence and giving satisfaction to the party wronged, in this quarter Sessions, may then and there be discharged. And after this Sessions, he may be discharged at other Sessions. And if the offender at any open Sessions confesse his fault, and give satisfaction to the party grieved, he may release him within the seven years, 3 fac. 13.5.

Eliz. 21.

The Justices of Peace may in this Court by Sect. 19.

Priestment, information, or otherwise, as they Ale-house
think fit, enquire whether Ale-house-Keepers keepers.

have done any act to forfeit their Recognizance,
and if they have, send for them in by processe to

2 shew

Part II. shew why it should not be levied, and hear and Chap. 4. 5 & 6 Ed 6. 25.

Seff. 2c.
About him that hunterh by night, &c.
Fine,

The fine to be fet upon him that hunteth difguised by night, and confessesh it upon examination, must be fet at this Sessions, by i H.7.7. and cannot be fet at the other Sessions of the Peace.

Sect. 21.
About making rates or rect - fying of them.

The rating of wages for labourers and servants must be at the quarter Sessions after Easter, or within six weeks after, and cannot be at any other time, or in any other place, 5 Eliz. 4. 1. Fac. 6. 39. Eliz. 22. 1. Fac. 25. And at this Sessions they must examine how it is observed. Yet see 13 R. 2.8.

For prisoners in the Kings Bench or Marthaliey.

In their quarter Sessions after Easter, and in no other place, nor at any other time, they may and must for the relief of the prisoners in the Kings Bench and Marshalsey, rate all the Parishes of the County weekly, as they think fit, so as no parish be under a half-peny, and at or above six pence, and all the County together, but at two pence a parish weekly, and appoint Treasurers to receive it, and at the years end appoint new Treasurers, and call the old to account, and appoint how the surplusage of mony shall be disposed. And these sums are to be rated upon the parishes by the Constables or Churchwardens, or in their default, by one Justice of Peace, 43 E-liz. 3. See.

And the Justices are here to set down how much shall be sent quarterly to the Kings Bench and Marshalsey, but it must not be lesse then twenty shillings a year to each of them. This money is to be levied and paid to the High Consta-

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ble, who are to pay it at every quarter Seffions Part II. to the Treasurers. Chap. 4.

They may here rate every parish in the Shire Por priloners for the relief of the prisoners in the common in the common Goale, as they think fit, so as they exceed not fix pence or eight pence a week upon a Parish. And this being levied by the Churchwardens, and paid over to the High Constables or head Officers of the place, they are to pay the same at this Seffions, to fuch as the Juftices in this Seffions shall appoint to be there ready to receive it, 1 \$46.25. 14 Eliq. 5. And this cannot be done at the other Seffions.

They may and must at the quarter Sessions For maimed after Eafter, and not ellewhere, or otherwise rate Souldiers,etc. the whole County, for the relief of maimed fouldiers and Mariners, no parish above tenpence, nor under twopence weekly, and if there be above fifty parishes in the County, the whole rate must not exceed fixpence a parish, 43 Eli. 3. and they may at any quarter Sessions set the like or a greater rate, not above two shillings fixpence, nor under twopence a week on a parish, on the County, for help of maimed Souldiers, widdows and orphans, of men flain in the last war. And these moneys the Churchwardens and Constables of every parish must collect and pay to the High Constables ten daies before quarter Sessions, and the High Constable to the Treasurers at the Sessions, 43 Eliz. 3. Ordinance of Parliamens, May 1647. & Aug. 1647.

If a parish or hundred be not able to relieve for the poor. their poor, the Justices at this Sessions, not at a perty Seffions, may rate any place within the C ounty to be contributary, 43 Eli, 2. And if the

poor

Part II. poor have parents, or grand parents, children, or grand-children, that are able to relieve them, the Chap.4. Justices may at this Sessions compell them to contribute towards their relief, 43 Eliz. 2,

An over-rate.

If any be grieved by a rate made for the poor, or in any of the cases before, he must be relieved here, and cannor be relieved elsewhere, 43 Eliq. 2. 14 Eliq. 5. 18. Eliq.3. So of a rate made for the Church upon the Ordinance of 8 Feb. 1647.

For them that

The taxes made by two Justices of Peace in the have the plague. country for the relief of them that are fick of the Plague, being sent into this Sessions (as they must be) may be there continued, enlarged, or extended to any other part of the county, as the Justices shall lee cause, 1 fac. 3.

Sect. 22. About aifignment of Penfions,

The Affignment and Revocation of penfions, for souldiers maimed, old and new, and of the widows and orphans of fouldiers, flain in the late wars, and Mariners, must be by the Justices at this Seffions, and cannot be at any other Seffions, and here they may fet down or alter as they fee good. And here they may fine the Treasurer if he refuse to pay it, 1 fac. 25. 43. Eliz. 3. Ordi. nance of May 1647. Decemb. 1647.

The Justices may here dispose of the surplus Sect:23. About disposall of the County Rock to charitable uses, according of the furples to the Statutes for the relief of the poor, and pufige of Stock in re Treasurers nishment of Rogues, 43 Eliz 3.

Seft. 24. About the poor or Rogues Settlement,

hande.

The ordering of matters of the poor if any thing be amisse done by the Oversees and ridering of the Church-wardens, must be at this Sessions. And therefore the removing and fetling of poor, unlefle they be Rogues, is to be done by order of

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this Sessions. And here they may as they do Part II. out of Sessions (if they will) binde the poor Chap. 4. children Apprentices, 43 Eliq. 2. But it feems the questions about Rogus may be determined at Binde poor Apany Seffions, upon 39 Eliz. Dalt. Fuft. P. 120. Prentices. except dangerous Rogues, who are to be punished Rogues. at this Sessions by a brand, with a hot Iron, erc. 39 Eliq. 4. 7 Fac. 4. But for the point of ferling, fee in the other point of the Justice of peace office in Chap, 18.

It must be by order of this Sessions, that the About ferting Church wardens and Overleers of the poor, with up of a ce trage. consent of the Lord of the Mannor, may fer up a Cottage on the waste ground there, 39 Eliz. 3. 43 Eliq. 2. and it cannot be done else-

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They may at this Sessions license the selling Sest, 24. of wine, in Towns that are not Corporate, and About granting otherwise none may fell but by special grant from Wine, the King, 7 Ed 6. 5. And this cannot be at another Seffions.

A license to him that keepeth Hawks, to shoot For mooting. hailfhot in a birding-piece or hand-gun, at Crow, Pye, Chough, Rook, Ringdove, or leffer bird for hawks meat only, must be had at this Sessions,

1 Fac. 27. not elfewhere.

Drovers of Cattel, Badgers, Laders, Kidders, For drovers, &c Carriers, buyers and Transporters of corn, grain, Buttter and cheese must be licensed at the quarter Seffions, and cannot be licensed elsewhere. And here it must be under the hands and seals of three Justicees of Peace, Querum unus, neer the place where the party hath dwelt three years before; nor may they so license retainers or housholdservants, but housholders, married men, and of thirty

Part II. years old ; nor may they give to them any license, for longer time then one year, from the date of it, Chap.4. which must be at the Sessions, otherwise they are

void. 3 Ed.6.14. 5 Eliq.12. 13.Eliq.13.

They may hear and determine all matters of controversie touching Contract sand Marriages, and all exceptions against them, and touching the diftribution of the forfeitures upon that Law: Where parishes are small or places are not within any parish, or no usual exercise is in the meetingplace, there three or more of the Justices in this Court, may as to this purpole unite them together, and one Register may serve for them all.

Sett. 25. About repairng of Bridges adjacent,

They may here, if there be four, Quorum unue, present, hear and determine all nusances in bridges and Highwaies in the highwaies, and of the highwaies 300 foot at the end of the Bridg, to the damage of the people, and make out fuch processe and pains upon Presentments, for the speedy amending thereof against them that ought to be charged, as the Judges of the Kings Bench use to do, or as they shall think fit to do, 22 H. 8.5. For the better under-Randing whereof, these things are to be laid down

1. If the whole bridge be decayed it must be

made again, &c. Cook 2. par. Inft. 701.

2. This Statute extendeth not to private brid. ges, to Mils, or the like, but only to common bridges in the Kings highwaies, where every one hath or may have passage, and the Indiament must be, that the publike and common bridge being in the common highway, upon the river or course of water, 60. Oook 2. par. Inft. 701.

3. This is to be understood of every Shire where be four Iustices of Peace, Quorum unus, and of every Franchise, City, or Borough where there be

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four Iustices of peace, Quorum unus, and where Part II. they keep a general Sessions of the peace for such Chap. 4. Franchile, City, or Borough. But for want thereof the Iustices of the peace of the County shall enquire. But if any such place be a County and have not such Iustices, no other Iustices can do this, but it must be reformed according to the common law

4. The first branch extendeth only to such cases as where there is some body in certain

known to be charged with the reparation.

ought to repair the bridges without the limits of Cities and Towns Corporate, shall be repaired by the inhabitants of the County, and such as are within their limits; and if the bridg be part within the one side, and part within the other side, each party must repair that which is within their own limits, Idem Stat. 21 H.8.5. For clearing of which branch know this.

First, That the persons charged by the word

Inhabitants are.

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1. Corporations and bodies politick, and other Inhabitants, persons resident in the place, or having lands there, Que in proprijs manibm & Sumptibus possiblent & habent, though they dwell and be elsewhere.

2. An infant that hath house or land by descent or purchase, and the husband of a Feme Covers.

3. A man that only dwelleth, and hath a perlonal residence there, but no estate, is not chargeable, for it must be such an inhabitant as is distrainable. Gook idem.

Secondly, If it cannot be known by any proof, who ought to repair it, the grand Iury are to finde the decay, and to conclude, and further the Iu-

rors

Part II. rors foresaid present, that it is altogether un-Chap. 4. known, what persons, what lands or tenements, or bodies Politique, the same bridge, or any part thereof, of right, or ancient custome ought to repair, or have used, and upon this, four Justices

hate for the High-waies. of peace are to proceed to affesse the County.

The Justices may here rate other Parishes not charged so much to the repair of the Highwaies as 12d a Pound in the Year, to contribute to the help of a Parish, that by that Rate cannot repair their high-waies.

Money given to repair the Highwaics,

The Justices may here hear and determine all matters concerning any charitable gift to any high-waies, cawswaies or Bridges, and make orders therein as Commissioners of charitable uses may do, and surther they may order damages, and set a Fine not exceeding 4016 upon the faulty, and cause this money to be emploied to the repair of the high-way.

Bylaws.

The Justices must here confirm Bylaws made in Parishes for the reforming of their Nusances; And what they do set down in this Sessions about the high waies, according to the new Ordinance, is finall and definitive, and there lies no Appeal in it. Ordinance 31 of Mar. 1654.

Sect. 20. About remaining a Church.

The Iustices may here order men that are bound over for not paying Rents to be paid for the repair of a Church, or for any Church-duties, to pay the money to the Churchwardens of the place. Ord. 9 Feb. 1647.

Fine for not repairing of an iffe.

And here they may fine a Churchwarden or other person bound to repair any Isle or Chancell 40 shillings, or above that is bound over to appear here for disobeving the order of a Iustice of Peace out of the Sessions. The same Ordinance.

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fighting Duels

They may here call to an account Treasurers Part II. for the Souldiers money by the Ordinance in Chap. 4. Decemb. 1647.

The Iustices may here if they please, and for a count. good reason, appoint a Cottage to be built, or acottage.

one that is built to be continued as long as they

pleale. Stat. 31 Eliz. ch. 11.

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The Iustices here may put in execution the Challenges? Law about challenges and duels. 1. They may imprison fix Moneths without Bayl, and binde with Sureries to the good behaviour, for one year, luch as fend, take, or knowingly carry or conceal challenges to fight Duels. 2. They may banish during life such as fight Duels. 3. They may punish Officers and others that do not hinder them, that do conceal and nor discover them. 4. They may punish by Fine and Imprisonment, and giving damage, such as shall use disgraceful provoking words or gestures. See part. 1 ch. 26.

They may here order such Ministers as are put in after the new Commissioners of the Counties have put out to repair their houses belonging to their Parlonages and Vicaridges, Upon the New Ord. Aug. 29. 1654. But they cannot here give remedy for a debt, or for a Legacy, por can they here give Alimony to a woman put away from her husband; But if she be or be like to be a charge to the Parish where they are, he may be by a high Rate forced to reason, and by this by-way (if the have need, and he be cruell to her,) the Iustices may here do somewhat for her.

CHAP.

Sett.1.

duty of the In-

fices of peace in the special

Selfions, and

what may be done there.

Sed . 2.

## Of their Power in their speciall Seffions.

His speciall Sessions is of special use for the ridding of the Goale, and other purpofes; And the Iuftices of Peace herein may take as much or as little bufineffe upon them as they The power and please, and are not bound to take upon them all the Service of the Commission as they are at the Quarter Sessions. And they have herc (except in some special cases before noted) the same power as they have at the Quarter Seffions.

For first, all that a Justice of Peace may do out of Sessions, he may much more do here in this Seffions, as punish Ale-sellers on 5 & 6 Ed. 6,21. Rognes upon 39 Eliq.4. and the like, See

1 fac.6.

2. In this Court they may hear and determine won all the Arcicles within the Commissioon of the peace, and that are offences at the common law. Lamb. fel. 624. as Felonies, Trefpal. fes, &c. See before, Dalt. I.P. 317.

Sed. 3.

3. In this Court the Iudges have power of O. yer and Terminer, of all offences which any A& of Parliament doth give them power in general, of enquiring, punishing or hearing, and determination, or determination only, without directions to any Seffions. Of this fort are the offences 2gainft the Statutes of 25 H. 8.13, about fheep, 2 H. 6.14. about Gold-smiths, 8.H. 5.3. about Gilding, 17 Ed. 4.4. about Tyle, 13 Rich. 2.8. about Victuallers, 21 H. 6.19. about Souldiers, 23 Eliz. 10. about killing of Phesants, Gc. 8. Eliz.

Sheep, Goldimith, Gilding. Tyle. Vianallers. Souldiers, Paciants.

Elia-3. about transportation of theep, 1 H. 8.7. Part II. about Coroners, 8 H. 6. 5. 11. H. 7. 4. about Chap. 5. weights and measures, 28 H. 8.14. about wines, Transportation 42 Ed. 3. 9. 23 H. 6. 10, 11 H. 7.15. 27 Eliz. of theep. 7. about Sheriffs, I ( 2 Ph. 6 Ma.5. about Weights and transportation of Corn, and many others.

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4. In this Court they have power also in all Sherfit. cales where the Statute doth ule the word Seffi- seff.4. ons indifferently, without adding the word General or Special, as upon the Statute of 2 & 3 Ed. 6.15. about conspiracy of victuallers, 5 & 6 Ed. Conspiracy of 6.4. about fighting in a Churchyard, 5 Eliz. 5. Victuallers. about eating of flesh on fish-daies, 60. I fac. 22. Fighting in a about Tanners, 4 Fac. 4. about Brewers. 7 Ed. Fish daies. 6.5. about wines, 2 & 3 Ph.& Ma.7. 31. Eliq. Tannere. 12. about tolling for a Horse in a Fair, &c. 1. Wines. Eliz. 17. about taking a fry of Fish, 19 H. 7. Horse. 11. about Hunting, 2 & 3 Ed. 6. 10. about de- Hunting, ceitful Malt, most of the branches of 5 Eliq. Walt.
4. about Servants and Aparentices, 4 & 5 Pb. Apprentices. & M. about Souldiers, 2 Ed. 6.6. 12 Ed. 4.4. a- Souldiers bout Escheators, 5 Eliq. 21. about Fishing and Fishing. Hunting, 1 fac. 27. 23 Eliq. 10. about killing Wilde Fowl. wilde Fowl, Hares, Phelants, Gc. 33 H.8.9. 2- Hares. Phelants. bout unlawful games, 33 H. 8. 13. about shoot- unlawfull ing in Guns, 1 Ed. 4.2. about certificate of In. Certificate by dictments by the Sheriff, about ulury, 37 H. 8.9. the Sheriff. 13 Eliz 8. Gum multis alys.

5. So also it seems to be in such cases where Sett. 5. the Statute appoints the thing to be done in open Servants. Seffions, as in 5 Eliz. 4. about Servants that Cottages. affault their Mafters, Gr. 5 & 6 Ed. 6.25. about Malt. Alchouses, 31 Eliz. 7. about cottages 27 Eliz. 7. Discharge of the good behan about Sheriffs, 39 Eliz 16.about Malt, 3 Fac. 13 vicini, about discharge of the good behaviour. Where it

meajures.

Sea. 6.

Seet. 7.

Part II. is open quarter Sellions, it epen did intend the Chap. 5. quarter, then quarter were idle and to no purpole. And fee 21 Fac. 22, the last caufe, Sed que. re. And see generall quarter Sessions in 43 E-

liz. 2. and many others.

6. In cases where a Statute gives power of Oyer and Terminer of any offence in generall; this must be done at one of theie Seffions as is before, and cannot be done out of Seffions. But where a Statute dorh give a special power, of power to do a special thing, as to make a rate of the like, and faith not where, there it may be done, as well out of any Seffions, as within or at the Seffions, See 22 H. 8. 4. Coo. 2. part.inft.

703,704.

7.In cales where the Statute defignet h the power to the Iustices, or appointeth the thing to be done in these words, at the quarter Sessions, or generall quarter Seffions, or generall Seffions, or ordinary Seffions, there the thing cannot be done at this Seffions, but must be done at the quarter Seffions, Sce before fol. 15. And fo alfo it feems, if it be principal Seffions, as 4 H. 7. 12. And the Inflices of peace in this Setfions also have power in these parriculars following.

Seff. 8. About making of Horfe-bread.

8. The Hoftler or Inholder that maketh not horsebread sufficient, and of due affize according to the price of corn, may be punished as well here as in the quarter Seffions; for the first offence by fine; Second, Imprisonment a moneth without Bayl; Third, Pillory without redemption; Fourth to be forejudged the keeping of an Inne. 21 Ia. 21

9. He that difturbeth a Preacher is to be bound to the good behaviour by the 1 M. 3. for one year. And this may be as well at this as at

Sett.9. About binding to the good behavgour, Diffurb a Preacher.

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the quarter Seffions. And he that doth deftroy Part II. a Fish pend, steal Fish, &c. is to be bound for Chap. 5. feven years. And this (it feems) is most pro- Dettroy Fifth perly to be done by 5 Eliz. 21. Dalt. I. P. 235. in a Seffions of the Peace; And that may be done as well here as in the quarter Seffions.

10. Any question about Rogues may be deter- sed. 10. mined at this Seffions upon 39 Eliq. Dalt. I. P. About Rogues, 120. except it be a dangerous Rogue, for he is

to be punished at the Quarter Sessions. 39 Eli.4.

11. In this Court also the Judges may receive Sea. 11. the Indiaments and Presentments of felony taken About receit of frd cta ent before the Sheriffs in their turns. And upon thele from the Sheriff they may proceed as upon Indictments original. Feleny. ly brought before themselves, 1 Ed. 4.2. as they

may in the quarter Sessions. 12. The Iustices of Peace of the County may Sect. 12. according to their discretion set down the rates About the and prices of every Ale-Brewer and Beer-Brewer and Beer-

of the County shall have and take for every Barrell, Kilderkin, and Firkin of ale and beer : and he that takes more, forfeits fix shillings a Barrell, three Shillings four pence a Kilderkin, two fhillings a Firkin: And this Affestement, though perhaps rigore juris it may be done out of

Sessions, yet it seems more proper to be done at 1 Seffions. 23 H.8.4.

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13. It feems Ale-houses put down by two Iu- Sect. 13. fices cannot be allowed again by two others, nor About Alchenotherwise but in this or the Quarter Seffions : Licenica de And there they may be licensed de nove. And novo. then they cannot be suppressed but at their Selsions again, where they were licensed, or the Quarter Seffions, 5 & 6. Ed, 6.25. Dalt. 1.P. 1.35.

Part II. Chap. 5. Set.IS. About Recogmizances of the discharge Thereof.

15. This Surery may be taken here as it may be by Iustices out of any Sessions, but the proper place of discharging such as are bound to the peace or good behaviour, is in the Sessions of the peace. And the Iustices cannot well do it out of peace of good the Sessions. And this is also the proper place to get a discharge of other Recognizances, which things may be done as well here as in the quarter Seffions.

Sed. 16. About the ta king of a prefentment.

16. In this Court the Judges may take the presentment of searchers of Tyle, of defaults they finde in making of tyle, upon 17 Ed. 4.4. as well as in the quarter Seffions.

Sect. 17. About the difcharge of an Apprentice

17. The discharge of an Apprenice from his Apprentiship may be at this Sessions by four Iustices of peace, Quorum unus under hand and Seal by & Eliq. 4. And yet by the words of the Statutes though one Iustice of peace may allow the cause of putting away or departing of a Servant, yet the proof of the sufficiency, or insufficiency, of the cause for which the Master may put away his servant before the end of his Term, or at the end of his Term wirhout warning, must be at the Sessions, and therefore it seemeth reasonable this offence should not be tried elsewhere. And yet the punishment of him that doth affault his Mafter, Ge. if it require more About afervant then a years imprisonment; may be here as well

Putting away a lervant

fter.

abusing his Ma- as in the quarter Sessions. And almost all the offences against that Statute are punishable as well here as in the quarter Seffions. 5 Eliq.4.

18. In this Court as in the quarter Seffions, About the con- they may by their discretion upon complaint and sealment of an by Bill, take and charge a fecond Jury, whereof EnqueR. every one must have 40 s. in Lands yearly to en

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quire of the concealments of other Inquests taken Part II. before them, within or without Franchises, and Chap. 5. before others of such offences as are enquirable and presentable before Instices of the Peace. And being found to be done within a year before, they are to americe them, according to their discretion, 3 H.7.1.

19. It seems they may here as well as at the Sect. 19. quarter Sessions, give remedy to the party grie-Abouta Witved against a Witnesse, that being served to appear in any Court of Record, and doth make default by 5 Eliz 9. Sed Quere. If in any Court of Record do not intend the four Courts as Westminster only, as usually by these words it is intended. Cook Rep.

20. In this Court the Judges may punish the Sect. 20. eating of flesh upon Fishdaies without License, About Ash.

the not disclosing of it to an officer, the not having of a dish of Seafish with the dish of sless by him that is licensed, and the offences of buying of Herring of an Alien, transportation of things in an aliens boat, and the importation of Wines from France in Aliens Ships against 5 Eliz. 5. as

well as in the Quarter Sessions.

of appearance, or otherwise the Justices of peace About a Certificate Recognization and must from this Court or the Quarter Zancesoficiate Recognizations where it is, certifie the same with the cause of forseiture into some of the Courts at Westminster, that from thence process may go out against the party, Dalt. Just. P. 213. And this Court may do this also. A Recognizance must be certified though it be released.

22. The Justices of Peace may here in this Sen. 23.

of

Part II. of all the ministeriall Officers that belong to the Court, as Sheriff, Clerk of the Peace, Coroners, Chap.5. Constables, and Bailiffs of Hundreds, that attendance and fervice they owe, and punish their neglett, 27 H.S.8. Toung 12, 14. R.2.5.

> And if Sheriffs or their under Officers return Turors without their additions, the punishment

of them may be hereupon, 27 Elig. 7.

22. Reftincion of stolen goods to him by Sed. 23. About refusuri- whose industry the Felon is attainted, may be on of Aola made by the fuftices at this Seffions, as well as at goods. the quarter Seffionsifor a Felon may be attainted befere them at this Seffions as well as at the other, 21 H. 8.11. Cook (econd part of bis Inftit. fol. 714. And though the goods have been fold in market overt, yet reftitution fall be made; and this restitution it seems the lustices must make

without enquiry of the fresh fuit.

24. This Court as well as the quarter-Selfions, may (it feems) hear and determine the offences of Clothiers in not feiting their Seal to their cloth, selling or putting to sale the cloth that fhrinks to lo much in westing by falle dying of wool or cloth, by felling by faile measures, uling iron Cards and Pickards, preffing cloth to be aled here in this Realm, or Ireland, not marking the cloth with the letter E crowned, by 3 & 4 Ed. 2. So the offences of overleers of cloth in not taking upon them, or in not executing their Office, the fame.

So the deceirs used in the stretching and others wife abuting of linnen cloth, may be punished in this Court, or the Quarter Sessions upon

1 Eliz. 12.

25. The taking of more then ten in the one HunDATE OF

Sed. 24. About cloth.

Sect . 25. About Viery. 5, L

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Mundred, or affilling in fuch a Contract, upon Part II. 37 H. S. & 13 Eliz. 8. is punishable in this as Chap. S. well as in the quarter Sellions. But the taking above eight, and under ten in the hundred, or the procuring of fuch a contract upon z1 fac. 17, it feems is not punifhable in either of thefe Courts. butelfewhere.

26. If any persons ( except fpiritual persons) Seft. 26. shall at one time, have of his own, or to his own About keeping use to keep upon his own or others Farmes , Farms except it be upon his own inheritance, or that which one hath in Joynture by the courtefie, or in Dower above two thousand freep ( 120 accounted to the hundred ) belides Lambs (to be reckoned of a year old and above, from the time of the fall to midlummer following) except freep for the maintenance of his boule, theep by Bxecutor. flip, Mariage, or given by will ro a child within age, he ferfeits 3 s 4 d. a theep. And if any take to Farme, or rake an eftate for life, years, or at will, by Indenture, or Copy, any more then two houses, holds, and Tenements of Husbandry, whereunto any Lands are belonging in any place what foever, nor may any man occupy fuch, except he live in the Parish where they are, Sab tene 3 s. 4 d. a week, folong as he shall occupy it, thele offences may be heard and determined in this Court as well as in the Quarter Sellions, Potent contents 1882 Male

37. In this Court as well as in the Quarter Sefficus, the creeting and continuance of corta- Sed. 27. ges, receipt, and keeping of Immates may be put and lamates. miffied, 31 Eliz 7. For the better understanding of which Law thefe things are to be known. . If one convert that building that before this Sta-

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Chap. 5.

Part II. tute was one honse into two houses, these are two corrages, and punishable by this Statute, for this is a continuing of Cottages. 2. If one build an old house upon a new Foundation in the same quantity that the old was, this is not punishable. 3. If one build two diftin & cottages cogether, the one upon the old foundation, the other upon the new ; that which is built upon the old foundation is not punishable, but that which is built upon the new is. 4- If one build a new house upon an old and new foundation together, fo that the entire house doth stand upon both together, this is a cottage punishable by this Statute, Trin. 8. Gar B.R. 5. The building of a fair house in the Country by a rich man, not having four acres of Land to it, is a cottage per Juft. Jones Trin. 13 Car. in B. R. But the placing of the poor is not in this Statute, Refelved of the Judges, Temp. Gar. Regis. Cottages in a City, Borough, or Market-Town, or used for workmen in a minerall, or in a Quarry of Cole, Stone, Slate, or for making of Brick, Lime, or Cole within a mile of the work, or within a mile of the Sea: for Seamen to furnish Ships; or in a Park or Forrest for the Keeper of the game, or for a Shepheard or herdman to keep the Sheep or Cattel of the Town, or for a poor impotent person, or let, or kept up by order of the Quarter Sessions, or built by their order and the Lords consent are excepted. 31 Eliz. 6.

28. If any Butcher, Fishmonger, Hostler, Ba-Sect. 28. ker, Brewer, or the like tradesman, sell their prohers and rates of vision at unreasonable prices, having respect to relling commo- the prices in the places adjoyning, and the place from whence the commodity is fetched, he may

About victual-

be fined in this Court, or in the quarter Seffions Part II. for it to the double value, 13 R.z.8, 23 Ed.3.6 And it feems the Inflices may fer down rates for the sale of commodities for provision, yet See

The prices of wine may be affested by the Sest. 29. Keepers of the Liberties Great Officer, and he wine. that fels for more, may be punished by the 40.s. Affellements of penalty here, 28H. 8.14. So the Iustices may here fet down the rates of Veffels of Ale and Beer.

See before, and 23 H.8.4. 30. If the occupiers of Land in the Country sed. 30. do not their endeavour to destroy choughs, About destroycrows, and rooks, or refuse to pay them that ing of Crows.

take themsthey may be punished here upon 24 H.

8.10. 31. The transportation of any Corn or Malt, Sea. 31. butter, cheefe, herring, orwood in shipping beyond About trans-Sea without license, or the carrying of such things portation. to fuch shipping to be transported, or the exceeding of a License herein, are punishable in this Court upon 1 & 2 Ph. & Ma.3.

32. The delivery or reciving of live sheep in any Ship to be transported out of the Realm, first offence loffe of goods, and imprisonment a year without Bayl, and loffe of his left hand, second offence Felony, this may be here executed at this

Seffions, by 8 Eliq.3.

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In this Court as well as in the quarter Seffions Sea.32. the malicious firiking of any person with any in the Church, weapon in any Church or Churchyard, or the &cdrawing of any weapon in that place, with intent fo to do, may be punished with the cutting off of one ear, and if he have no ear, with burning, upon 5 & 6. Ed. 6.4.

33. In

Their power in Special Sellions.

17 34S Chap. 5. (Sed.23.

Abone Surs

Inter Parces.

Part II. 32. In some special cases they have power here to hear Suits between party and party ; as on the Statute of 3 H. 8. for levving of money for Knights of the Parliament, and the Scatter of Labourers, 5 Eliq. 4. and for taking Fifb, Deer. and Hawks, & Elig. 21, which may be at any Sel. Sions of the Peace.

> Tr feems in all cases where direction and power is given by any Statute to fun for a penalty in any Court of Record within this Realm, as in any of the Keepers of the Liberties Courts, as in 1 14. 17.18 10 24.20 and divers others it may be fued here; Comra, if it be in any of their Courts of Record at Westminfter, as 1 fac. 21.10,21.H.S.

Cland many others himmed yem

Sett. 34. About making of Orders.

24. At this Sellions as well as at the quarter Sellions the Court may make fuch Orders as they have been used to make according to Law, and they may annex a penalty, but how they may recover it, quere; for it feems there is no law for it, ver doubtleffe for any affront or convempt in facie Curia or offence in an officer of the Court they may fine or imprifon, for this power every Court of Record hath. And upon other orders. made confonant to Law and reason perhaps they may punish disabedience, especially if it be joyned with contempt, by Indiament, binding to the good behaviour, or Attachment; Quare of thele things, Cook 8.61,49.

Fine for contempt in Facie Coria. Commitment.

Indiament. Good behaviour

Seat. 35. About the con(piracy of Victuallers or

35. If any Butcher, Brewer, Baker, Poulgerer, Cook, Coftermanger, or Fruiterer, conspire not to fell their victuals but at certain prices. Or La-Workmen. & bourges or Artificers, confpire not to work but at fuch rates, or not to finish what another hath begun or to do but a certain work a day onto work

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but at cerain hours, 1 offence 10l. or if not paid Part I I. within fix daies, twenty daies imprisonment with Chap. 5. bread and water only ; a offence 201, or not paid within fix daies Pillery ; 3 offence 40 pounds. and nor paid within fix daies, Pillory and loffe of one of his ears, and this may be executed in this Court as well as in the quarter Seffions, 2 & 2 Ed.6.14.

36. The offence in felling Wine against the sest 26. Statute of 7 Ed.6. 5. about Wines, may be punith- About Wines.

ed here as well as at the quarter Seffions;

37. Any default in the owners or Governours sett . 37. of Fairs, keepers of the Toll-book contrary to about hories 2. & 3. Ph. & Ma or 3 I Eliq. 12 is determinable Malt. here as it is in the Quarter Seffions, So any default against the Statutes made for the ordering

of Malt-making, 2 Ed.6.10.

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All those things which by any Act of Parlia- Seff. 38. ment are appointed to be done at any Seffions, What may be and not elfewhere, can be done at no other place or done out of one time, and of this nature are all there things before and after particularly named. Such as keep Greyhounds, e. and against 13 R. 2.13 Such as pub. lift falfe Prophecies, againft & Eliz. 15. Such as transport corn, againft 1 & 2. Pb. & Ma. 5. Such as offend against most of the branches of & El. sabout the constitution of the Navy. And such as fell by unlawful weights and measures against 11 M.7.4. All thefe muft be punished in one of thefe Seffions.

Chap. 6.

## The Charge for the Quarter Seffions.

Seff. I.

THE Articles wherewith you are to be charged are many, for at this Sessions all things ought to be given in charge, that dee lie within the authority of the Iuflices to be determined. Time will not serve to tell you all, therefore that we may make the best use and yet keep our selves within the bounds of that sime we have allotted to us, we shall observe this method. 1. We shall wholly passe by those particulars which are in respect of the present time, place, or condicion altogether unusefull. 2. We shall only touch upon, and lightly run over such things as are lesse serviceable and usefull. 3. And stay only upon the things that are most pertinent and behoevefull. In the which also we Thall endeavour to be as brief as it is possible to be in so large a Tract. And therefore we shall only name the Law, and offence against Law, without amplification or exposition, and recite only that part of a Statute which makes the offence, and no other pare thereof. We shall winde up together, and reduce to one head as many things as we may. 3. We shall purposely pretermit the rehearfall of the punishments of each offence, for that they do rather appertain to the Iustices then to the Iurors. And when we have done all, we shall be forced to charge your memory with more then it can well carry away.

The charge to be given doth confift of two parts, Laws Ecclefiastical for the peace of the

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Church, and Laws civill or temporall for the Part II. Peace of the Common-weal, and in answer to Chap. 6. this, the offences, which are the breaches of thele Laws, are capable of the like division. But they do admit divers other divisions. For thele offences are reducible to divers heads, some of them are given in charge here, rather for instruction or preparation, then for execution. Some of them do concern spiritual or Ecclesiasticall matters, others do concern civil matters. Some of them concern crimes that are more penal, and of a higher nature, others of a lower nature, and leffe penall. Some of them are against the Common, some against the Statute Laws, some of them are publique and general, and concern the Commonwealth, some private persons, And amongst these also which concern the Common-wealth, some concern the Peace, some the Iustice, some the frength, some the flourishing estate, and some the ease of the Common wealth. Again, some of them concern matter of force and violence, others matter of fraud and deceir; also among them which concern private and particular persons, some concern the body, some the body and goods together, some the goods only, some the name. These which concern the body are either in taking away the life thereof or abuling it without death.

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We shall sirst of all give you the things that do concern the Ecclesiastical or Spiritual matters. And of these, first such as wherein this Court deth take upon it no further conusance, but only to enquire and discover, and so (if it have so much power) to prepare for other Courts who have power to proceed further therein. And

we shall name in the first place.

If any have brought from the Bishop of Rome

or any other authorised by him, any tokens or

Part II. Chap. 6. Seff. 4. Agnus Dei, Groffes.

things called Agnue Dei, crosses, pictures, beads, or such like superstitious things, and hath offered or delivered the same to any to use or wear, and if any to such intent have taken and received the same, and not apprehended, nor within 3 daies disclosed him to the Ordinary or some Iustice of Peace, or within one day delivered the thing to some Iustice of peace, this is a Premunire.

23 Eliz. 2. Sending children 100 la

1 Jac. 4.5

Promonire.

If any have fent their children or any under their government to any Popish Seminary beyond Sea to be instructed in the Popish Religion.

or to professe the same.

Popish Books 40.s. Books to be barned.

If any person have brought from beyond Seas, printed, sold, or bought any Popish books in any language whatsoever, or any superstitious books in English, they are to be burned.

All these we are to enquire of only, and now we shall name to you such offences in Ecclesiasticall matters wherein this Court hath a compleat consulance, (that is) power not only of enquiry, but also of Oyer and Terminer. And the first of

thefe is Herefie and Blasphemy.

Sect. 5. Herefie, Ordinance May 2. 1648. If any do willfully and obstinately maintain and publish by preaching, printing, writing, or teaching, that there is no God, or that he is not eternal, or the like horrible blasphemy or heresie, this is felony. If the error be less, as if the opinion be that all men shall be saved, or that man hath by nature freewill to turn to God, or the like, for this the punishment is lesse, he is to renounce his errour according to the order of two Justices of the Peace, or else stand committed to prison till he give bond to them, with two subsidie men

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foreties, never to offend in that kinde again.

If any superfitious monuments or pictures be Chap. 6. continued in any Church, Chappel, or open place. Superflution. It any person who is a Recusant, convict, or his monuments. wife a Reculant convict, have Altars, Pixes, Seff. 6. Beads, Pidures, Crucifixes, or other reliques of 1 Loc-4. Popery, they are (if of small value) to be burnt, some take these or elfe to be defaced.

If any person have said or sung Masse, he is for rable not deterthis to lole two hundred marks, and be imprifo- Quare fee > ned one year. If any have willingly heard Masse, Recusants , E. he is for this to lofe an hundred pound, and be lize to La ment, and two

imprisoned one year.

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Or if there be any such who do not once every 20.1. the first year receive the Sacrament of the Lords Supper year. 40.1. the according to the Statute 3 Fac. Their names and foll every year the names of all their children and fervants must after be presented.

Those that present them are to have a reward a moneth of forty shillings out of their goods and Lands.

If any do willingly maintain, retain, relieve, or keep any fuch Recufant in his house.

If any retain such an one for his servant-

If any married woman receive the Sacrament

as aforefaid. If any Popish Recusant marry, and baptize historic fhird part of his their children otherwise then after the custom of Land, 3 Jic.s.

the Church. If any do by word or deed maliciously and Good behvions. Purpolely difturb a Minister in the Sermon time, moneths inor if any shall rescue such an offender.

If any within three moneths last past have de- a Impar. Praved or despised the blessed Sacrament of the Imprisoment, body and bloud of Christ.

If the Constables or other Officers of every Purf. s.s. parish

Part II

be only inqui-

parts of their

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Part II, parish have not within a week after the sending of Chap. 6. the Book called The Directory for Worship, delivered the same to the Minister. 2. If the Mini-

fter have not read it openly amongst his people the next Lords Day after the receipt of it before

morning praier. 3. If the Minister in his Mini-40 s. a time. stration have not observed and pursued that order

in all things. 4. If the Minister do still use the Book of Common-praier in publike or private I Offence s 1. 3,20,1.3. Imprisomment a years worthip. 5. If any Minister say or do any thing

in derogation of this new Form of worship prescribed. All that are punished for these things,

must be at the next or second generall Sessions after the thing done. But it is much doubted whe-

ther this Ordinance may be put in execution by

Justices of Peace in their quarter Sessions. Therfore Iustices may forbear to give it in charge. If any do not san &ifie the Lords day in the pra-

Rife of the duties of piety and charity, but profane it. 2. If there have been Affemblies or meer ings of any people for any sport or pastimes out Stocks & bours, of their own parishes, or any Bear-batings, Bullfor want of di- baitings, enterludes, common plays, or other unto be fold, the lawful exercises in their own parishes on that day within one moneth laft paft. 3, If any Shoemaker have shewed with intent to put to Sale any Ad. and the va- Shoes, boots, flippers, or the like on this day. 4. If any do cry, shew or put to sale, any wares, fruit goods forfeit by goods or chattels on that day. 5. If any Carriers Ordinance of Waggoners , Wainmen, or Drovers have travel-3 Carit. 201 for led with Waggons, Cart or Cattell on that day 60 8d. , Cur. within fix moneths laft paft. 6. Or any Burcher have killed or fold any victuals on that day the Bockithree within this time. 7. Or if any do carry any other

hours. If above burthens or do any worldly work on that day.

Sabhath day 35 4d apeecre or fit in the Areffe, which is overplus reftored. 1 fac. 3. s. lue of the things 1 Iac.23. The every off inc . \* 15 0 d. of

Parl, or fit in

8. Or if any use or keep, or be present at any Part II. wreftlings, bowlings, theorings or ringers for Chap. 6. pleasure, or any wakes, or the like pastime, O'c. If under, his 9. If any man without good cause travell on this Mafter or Faday. 10. If any owner of a Marker keep it on this or in flocks ;

If any have prophanely sworn or curst; If he Swearing 12 de be under twelve years old, he is to be whipped by 3. hours.

the Parents or Constable.

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If any one hath committed wilful perjury, or and s. meneths procured, or suborned another to commit wilful impisonment, perjury in any Court of Record, court Baron, or moneths imprihundred court.

See for profanation of Gods name in plays, 66. 3 lac.21. If any Tury charged to enquire of any robbe- Imprisonment.

ry or felony, spare and conceal it out of favor and

partiality, Statute of Winchester, 13 Ed.1.1.

If any person have used Invocation or conju- Wittherast. ration of evil spirits for any cause, or any witch- 1 Jains, craft, enchantment or charm, whereby any person years imprishall be killed, or any part of him wasted, or la- forment withmed, this is felony. If any use any Witchcraft, fand in the Pilor charms to finde out hidden Treasures, to tell lory fix hours every quarter where lost goods shall be found, or attempt there- of the year, the by to provoke unlawful love, or to destroy or fecond of sece hurr any mans body, or wherby any mans cattell be destroied or impaired, to doe this the second time is felony.

If any do by speech or writing divulge, that the opinion eating of flesh upon daies now usually observed, preached about as Fishdaies, is of necessity for salvation of souls, 5 Eliz.5. or is the fervice of God, otherwise then as other

Politick Laws.

Thele are the offences about spiritual matters, wherein this Court hath a compleat conulance and Iurisdiction.

ther 13d. to 3. hours. I Car. 10: 27.H.6.5. or in the flocks 11 lac. 20. Perjary 20 1.

fonment. 5 El:z.9.

Part II. The offences that follow in the next place are concerning civil marrers, And of thele, first of Chap. 6. fuch as are more penall, mortal, and of a higher nature, then of others that are of a lower mature, and venial; of the first fort are all Felonies. For as touching high I reason, and some Felonies (wfually given in charge in this Court) it must be to this end, either for inftruction only, or for information, and to make preparation for fome other ludges and Courts, or elfe as it is a felony ( for every Treason at common Law is felony, and more ) and fo only enquirable here. Now high Treason being the greatest offence, it is not amifle to flew you how many waies it may be committed, and to name those felonies which are only enquirable here.

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Sect. 7.

The offence of High Treason may now be committed by any of these following things. 1. To print, write, or openly to declare that the prefent Government is tyrannicall, ulusped, or unlawful : Or 2. To plot, contrive, or endenvour to ftir up or raile force against the present Government, or for the subversion and alteratiof the fame, and to declare the fame by any open deed. 3. And to imagine or compasse the death of the Lord Procector, 4. If any bur Souldiers shall endeavour to ftir up any mutitny in the Army, or to withdraw the Souldiers thereof from their obedience to their Superlour Officers, or from the prefent Government. J. To procure, invite, aid, or will any forreigners to invade England or treland, or raise force against the present Government, and declare it by open deed, or counterfeit the money of the Common-wealth, and fome other things are made Treason

Treason by a New Ordinance, Juanuary 1653. Part II.

7. To adhere to any Forces raised by the E-Chap. 6. nemies of the Common-wealth. 8. To counterfeit the Great Seal of England for the time being. But for any of these no man may be questioned above a Year after the offence done.

These Offences are not punishable in this

Court.

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If any Person within one Year last past, Extelling forhave by word or deed maintained and defended any forreign power, Spirituall or Ecclestic. Forreit goods afticall of any forreign Prince usurped within I Eliz.t. this Kingdom: Or if any have counselled, Pramuniresubstreed, or given aid to any such person in 5 Eliz.t. so doing. This in the third offence is High Treaton.

If any within the time aforesaid hath by word or deed extolled, defended, or maintained the authority and jurisdiction of the Bishop of Rome usurped in this Realm, or attributed any such authority to that See, or if any have abetted, procured, counscelled or aided any such person. This is high Treason being done the second time, the first being but a pranuaire.

If any have used or put in any Bull or such like Instrument gotten from the Bishop of High Treason. Rome, or any claiming authority under him, or Elizated have published any such, or have taken upon off ring, of him to absolve or reconcile any thereby, or if Bulls, any have received such absolution, or if any have procured, abetted, or counselled any such High Treason. offendor.

Or if any have aided, maintained, or comfort.

Part II. ed fuch after the faid offence, This is a Pramunire. Chap. 6.

T Tac.ch.4. naries. Treafon, 3 ,Eliz, 30

If any Jesuire, Seminary Priest, or any other Deacon or Priest ordained or professed by any Tefuites, Semi- authority or Iurisdiction from the Sea of Rome, be come, or do remain in this Realm, this is high Treason.

> Or if any give, fend, or contribute any money or relief to any fuch for the maintenance of any College or Seminary of fuch beyond the Seas.

> Or if any knowing any fuch to abide, do not discover it within twelve daies after his knowledge to some Iustice of Peace or higher Officer.

Fine. Im, rifenment

Premunire.

All these offences are punishable in other Courts.

To imbezle or rafe any Record & Felony, 8 H.6.cb. 1 :. So to forge, or cause, or agree to be forged any deed or court-roll, or to publish any fuch, knowing the same to be falle, the second time is Felony, 5 Eliq. ch. 14.

And these Felonies are punishable by the Iudges of other Courts, but not in this Court.

We shall now speak to such offences as whereof this Court hath compleat conusance, i. power to hear and end. And first of Felonies.

Felonies (we must know) are either simple or relative, by common Law, or by Statute Law; and some are by both. And these again are either (as we have touched aiready) publike. And those do either concern the Common-wealth either in Treason, as in the cases before, or in Felony only, as by carrying away our men or arms to serve other Princes, or by rebellious Assemblies, Transportation, and the like.

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Or elle they are private. And those be either Part II. fuch as do touch the body only, or the body and Chap. 6. goods together. Or the goods only, That which doth concern the body only, which is either by taking away the life thereof, which is called homicide, or by abusing it without death, as by cutting out the tongue, buggery, Rape, and the like. Homicide is either of ones felf or another, that of another is either voluntary or involuntary. That which is voluntary is either dispunishable by Law when it is commanded for Iustice sake, or allowed or excused for other causes which be no Felonies; Or it is punishable. And that whether it be upon malice prepenfed, as murder, or fudden adventure, as by a fuddain falling out and in hot bloud, without any premeditate malice, or in a mans own defence, or by meer chance, as chance-medley. Other divisions by others are made of thefe things.

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which concern private persons.

If a Goaler use his prisoner so hardly that Goaler competithereby he compel his prisoner to be an approver, ling a prisoner to charge another to be a partaker with him in 14 Ed., 9. the selony, this is selony.

To offer to smite a Judge in the doing of his office is petit Treason, and the highest degree of Petit Treason.

Felony.

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If any had conspired to destroy any of the Conspiracy a-Kings Councell or principal Officers, though he gainst the Kings did not effect it, this was felony.

If one acknowledge a Fine, Recovery, Deed Acknowledge in folled, Statute, recognizance, bail or judgement &c. 11 10.23;

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Their charge for

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Part II. ed fuch afrer the faid offence, This is a Pra-

Chap. 6. munire.

I Jac.ch.4Iefuites, Seminaries.
Treafon,
3, Eliz, 2.

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Or elle they are private. And those be either Part II. fuch as do touch the body only, or the body and Chap. 6. goods together. Or the goods only, That which doth concern the body only, which is either by taking away the life thereof, which is called homicide, or by abusing it without death, as by cutting out the tongue, buggery, Rape, and the like. Homicide is either of ones felf or another, that of another is either voluntary or involuntary. That which is voluntary is either dispunishable by Law when it is commanded for Iustice sake, or allowed or excused for other causes which be no Felonies; Or it is punishable. And that whether it be upon malice prepensed, as murder, or sudden adventure, as by a suddain falling our and in hot bloud, without any premeditate malice, or in a mans own defence, or by meer chance, as chance-medley. Other divisions by others are made of these things.

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Felony.

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If any had conspired to destroy any of the Conspiracy s-Kings Councell or principal Officers, though he gainst the Rings did not effect it, this was felony.

If one acknowledge a Fine, Recovery, Deed Acknowledgeinfolled, Statute, recognizance, bail or judgement ac. at lac. 29,

in

Multiplication

of gold,&c.

Congregating

of Malons, 3 H. 6.1.

Part In in the name offanother, he being nee privy, nor Chap. 6. confeating thereunte, this is felony

Topractife the art of multiplication of gold or

filver is felony

If any final cause Masons to congregate together in chapters and Affomblies, and there to confederate to subvert the Lawsythinis felony.

Souldiers departing. 7 H. 7. 2.3. M & 5. 18 H 0.17. 5 Eliz. 5

If any Souldiers having taken preffermoney! do not goe with their Caprain, or being in lervice depart without licente, or any Mariners, at Gunners, take prels-muney, and depart without

licenfe, either of thele are felony.

Embezeling habilimentstor war,

If any Souldier imbozle or convey away any Ordinance, armour, flot, powder, or other habiliments for warre, or victuals provided for fouldiers, to the value of so.s. though at feverall times, or have fold or conveyed any horfe into forreign parts without license, every of these offences are felony. So if any Souldier do counser feit a Teftimonial from his Caorain.

31 Eliz 4 39 Elizar76

To wanfport or hip away theep out of the

Transpottation of Sheep. 8 Eliz.j. Plague.

1::00:0

Realm the fecond time is felony

If one infected with the Plague, and having the fore running upon him, and being commanded by an Officer to keep his house, doch afren wards go abroad, and converse with company,

this is felony.

10. Egyptians.

1 Iac. 31.

If any perion of the age of fourteen years or above, fall call himfelf an Egyptian, or fall be in the company of fuch an one, or shall difguife himself in apparell, speech, or otherwise, like fuch an one, or thall be or continue in England one moneth at one or feveral times; this is folony. ore acknowledge a r

1 & 2 Ph. & Majt.

> Willingly to harbour any Islante or Popilis Priest

Priest born Here and at liberty, is felony.

If any incorrigible Rogue banished the Realm Chap. 6. return Withour licenie, or being burnt in the Isluites, shoulder and fent home, do afterwards wander a- Rogues. broad, each of thele is felony.

If any Captain or Lieutenant had served any forreign Prince before he had given bond, not to conspire against the King, this was felony,

3 Fac. 4.

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If one be in prilon or only arrested for felony Breach of or suspicion of felony, and he break the prison prison.

and escape, this is felony.

If any idle Souldiers or Mariners wander about 1 Ed.3.17. idlely, and will not fertle to an honest course of souldiers and life, or go to their place of birth, or laft dwel-Mariners. ling, this is felony, 39 Eliz. 17. Or if he goe without, or counterfeit a teltimonial of a Iustice of Peace.

There are divers other felonies touching hawks 34 H. 3.12: and hunting in Forrests, and other matters of 1 H. 7.7. little use now, for which cause I shall omit them.

Now to felonies that concern private persons, Seff e.

and first of Homicide.

If a man kill himself he is said to be a Fe lo de FELO DE SE (6, and this is fuch an offence as for which if he be in his right minde when he doth it, he shall

forfeit all his goods and chattels.

The offence of killing another man is greater petit Treafon! or lefte, according to circumstances. For if a man Loffe of all or maid kill his or her Mafter or Miftreffe, a fon or daughter kill his or her father or mother, or a woman kill her husband, or a Clerk kill his Ordinary, this is the highest degree of these murthers, and is called Petit Treason, which offence also may be committed by other acts.

Part II.

39 Eliz. 4. I Iac. 7.

1 H.7.6.

Part II. Chap. 6. Murder.

If the killing be with any malice prepented, or without any provocation, or by poylening, or to kill an Officer in the execution of his office, in which cases there is malice presumed to be, this is a high degree, and is called Murder, or willfull murder.

Man-flaughter. The like.

The like.

But if the killing be upon a sudden salling out and in hear of bloud, without any premeditate malice, this is an offence of a lower nature. and

is called man-flaughter.

And if one be attaulted by another, and fly as Se defendendo, far as he can, and at last being followed so hard Loffe of goods, that he cannot avoid it, but must in his own defence, and by inevitable necessity, kill or be killed, and then he kill the pursuer, this is an offence of a lower nature, and lesse punishment then the laft. And so it is where one doth kill an-Chance medley, other by mischance, and against his will, by shooting an arrow, or the like, this is faid to be per infortunium, or chance medley, and of the same

The like.

Baffard.

nature with the latt. If any woman be delivered of a baftard childe, and born alive, that endeavoureth privately by drowning, fecret burning, or other way by her felf or other, to conceal the death thereof that it may not come to light, whether it were born alive or dead, the is to luffer as a murderer, except the can prove by one witnes that the childe was born dead

2t Jac 17. Killing juftifiable or excufables

But here ere we go further, we must tell you, that there is a killing which is justifiable, or at least excusable. For if a man set upon me to rob me by the high way, or to rob, burn, or burglarily to break my house, I may kill him. So if

I be a Souldier in a lawful Warre, I may kill as kill or rob me la doing Iuftice many men as I can. If I be a Judge, I may give

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fentence of death according to Law. If an Offi Part II.
eer, I may do execution according to that fen-Chap. 6.

If a Traitor or Felon being pursued, fly or refift that be cannot be apprehended, the pursuers

may justifie the killing of him.

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So if prisoners riotoufly refift the Goaler, and they are likely to break away, and he cannot o- Tokeep the therwise suppresse them. So when men riotous- peace. ly refift the Justices and other Officers of peace, and they cannot be otherwise suppressed, or the Peace otherwise kept. So if a Forrefter, Parker, or Warrener in pursuit of one that is stealing or spoiling of his game, when being required to yield himself, he refift or fly. In all these and some other cases, if one man kill another, he shall not be punished at all for it, neither hath he need to fue a pardon of course for his life, as he must do in cases of killing. In his own defence, or by chance medley, and for the better understanding of all these things touching this kinde of crime, these general rules must be observed, 1. The death must be within a year of the cause, the blow or the poylon given, otherwise it is no murder, nor punishable with death. 2. If one intend to kill one, and miffeth him, and killeth another, this will be all one in confirmation of Law as if he had killed the same person. 3. If one be in doing an unlawful Act, as beating a man or the like, and in the doing thereof he kill a man accidentally, this is a killing punishable, and may be greatned or leffened by circumstances. 4. If divers persons come together to do an unlawful act, and one of them kill a man, and the rest stand by, and look on, they are all principal murtherers. 5. All

Part II. that are prefent at a murther, and do encourage Chap. 6, the murther, are principal murtherers. 6. It is not material who gives the first blow. 7. It is no murcher unlesse the party killed be in being. 8. An intent of killing, unleffe the act following is not punishable by death. 9. Infancy, madneffe, and compulsion will excuse a man from punishment in case of man-killing.

> So we have done with felonies private touching the body only, by taking away the life thereof; and now are come to speak of those felonies which do concern the body by abusing of it

otherwife.

Sea.10. Curting out of tongues,&c. Loffe of all, 2 H.4.5 Buggery the liffe. 25 H.8.5: 5 Eliz.17. Taking and carrying away women,&c. Loffe of all. 3 H.7.10

If any man willfully put out the eyes, or cut out the tongue of another man; this is felony.

If one commit Buggery with man or Beaft, this is felony, for which anciently he was to be burned.

If any take away any Wife with her Hufbands goods, Maid or Widow, baving Lands or Goods, or being heir apparent to Land, ar gainst her will, or if any receive any fuch, this

is felony.

If any do ravish any maid, or wife, or widow above ten years old against her will, though she atter confent to it. Or if any do carnally know any maid under ten years of age, though it be with her confent, this is felony.

Rape the like.

West-2-14. 38 Eliz. 5.

If one marry a fecond Wife or Husband, the Bigamy the like first being living, this is felony; But if the party have been ablent leven years, and the one doth not know the other to be living within that time, or they be legally divorced, or they were married within years of confent, it is otherwife.

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Now follow fuch felonies as de concern the Part IT. body and goods together, or the goods only.

The felony that is committed by the taking sest, 11. away of anothers goods is greater or leffe also by circumstances, for if one do feloniously take away the goods of any Parish out of their Church or Chappell, this is a high degree of felony, and is called Sacrilege.

Szerilege.

If one take dway any thing from the person Mosse of all. of another, any thing by way of robbery upon Robbery, loffe the High-way, of picking a pocker, or curring of all. of a purfe, though it be but a penny, this is an offence of an high degree, and called robbery. So likewise if one break into the house of ano- Burglary, losse ther, where he or some of his family are, or use of all. to be, with an intent to rob or kill in the night time, and do or do not take away any thing, this is a great offence, and is called Burglary. So to rob a house, Barn, or Stable in the day time, to the value of five shillings, though no be in it; Or to rob it by day or night, if the person be in it, and pur in fear, or to rob him in any part of his dwelling house, any of his hous-

hold being within it. Or to rob any booth in any fair or marker, any person belonging to'it being within it, sleep- Feleuy, great ing or waking; all these felonies are Burglary; and small. But if in other cases one man do feloniously take away the goods of another against his will, be it horse, theep, plate, or any other alive or dead thing, if it be above twelve pence in value, this is felony; yet in this cafe he shall have his Clergy for his life. But if the thing taken be under twelve pence in value, then it is a leffe offence called Petit Larceny, for which the of-

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Part II. fender is onely to be whipped ..

Chap. 6. If any servant trusted with his Makers goods
Petit Larceny, to the value of forty shillings, or more, imbezle
Whipping. the same, this is felony.

Servants trufted with goods. The like at H. 8.7. Burning of houfes, the like.

If one wittingly burn any house, or barn full of Corn, or any out-house adjoyning to such a barn, or dwelling-house, in the night or day, this is felony. Also the burning of any other house, or stack of corn feloniously, is thought to be felony by the common Law. So also if a man wilfully burn his own house, and thereby burn his neighbours house also. So if one burn a part of his neighbours house wittingly, and it be quenched, this is felony. If one do malitiously cut or burn any frame of building provided for a house, whereby it is made unserviceable, this is felony.

Now for the better understanding of these things, and Larceny in general, you must know, I. It must be of goods and charrels, personall and moveable. Therefore the stealing of Chattels reall, as Charters of Land, an infant in ward is not Larceny. Nor of fuch things as are part of the Freehold unsevered; as fruit from a Tree, Lead from a house or Church. Yet if one cut down a Tree one day, and fetch it away to morrow, it may be Larceny. 2. The party from whom they are stolen must have a property and a possession. And therefore to steal goods hidden, waved, or wrecked, or strayed, is no felony. So to steal things which are wild of nature, as Doves abroad, fishes in a river, is no felony, except it be young Pigeons in a neft, and foretrained by nature, or fish in a stew or pond, and so restrained by place, or made tame by Art

5 H.4.5:

Art as tamed Deer. But to take the flesh of any Part II. wilde Fowl dead, or the wool from off the Chap. 6. fleeps back is felony. 3. They must be things of profit, therefore to take away Dogges, Apes, Parrets, finging Birds, and the like, is no felony. 4. It must nat come to the party taking away by the delivery of the owner; yet if a man have the use only, as of plate in a Tavern, or one deliver the goods to carry to one place, and he carry them to another, or carry them to the same place. and then takes them away, this is felony. 5. The things are carried or led away; yet if one move the goods out of their place, with a felonious intent to steal them, though he carry them not out of the house, it is felony. So if one stealing away a Herse, be taken in the manner, so that he cannot carry him away, this is felony.

Thus for of Simple Offences. Now for Rela. Sed. 12.

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One may be accessary to anothers offence Accessary before two waies, either before or after the same is orafter. committed. A man may be accessary before the offence committed, by commanding, conspiring, hiring, abetting, procuring, countenancing or agreeing to it, when he is not present at the deed done. And a man may be acceffary after the offence done, by harbouring, comforting, cherishing, shifting away, or concealing of the offender knowing of the offence. And by this he may make himself as far forth guilty and punishable as the principall offender, conlentors, actors, and inftiga:ors, that fuffer the same punishment, touching this thing, these rules and cases are to be remembred. 1. In Treason and

Part II. and Trespasses, all are principals, and there is Chap. 6. no accessary. 3. If one command an evil act. as to beat another man, or the like, and felony proceed thereupon, he is guilty of this felony, otherwise where the act is lawful, and that effect followerh. 3. If one command a felony, and it be done in another fashion, time, place, or manner then was commanded, yet he is accelfary to it. 4. But if one command one felony, and be do another, or it be executed on another person; or if one do only know of a felony, and not give confeat to it, or be prefent at it ( not being party or privy to it ) and do not disturb it, or pursue the felon. 5. If one pursue a felon by hue and cry, and take him, and then take his goods and let him go, or take money of him not to give evidence against him, or receive Rolen goods, knowing them to be stolen, by either of these he maketh himself accessary. 6. But to take a mans own goods, and no more, or to endeavour to deliver a felon, or to take Rolen goods into his house, not knowing of it, and no more, will not make a man an accessary. But if a man buy ftollen goods he knoweth to be fo, and for a small matter, it is dangerous. 7. Felony by Statute hath acceffaries before and after the fact done, though the Statutes speak not thereof.

By bresking of the prilon. The like,

A man may make himself guilty of anothers offence by a labour to shift the offender from the Justice of the Law. As if one in prison or under arrest for an offence, or upon a suspicion of it, and another break the prison, and help to convey him away secretly or openly, by this he makes himself guilty of his offence.

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So if one be attainted, arrested, or imprisoned Part II. for an offence, or upon a suspicion of it, and an-Chap. 6. wher doth forcibly rescue him out of his hands By rescue of the hat hath him, by this he maketh himself a prin-Prisoner. dpal offender guiky of the same offence, and liable to the same punishment whereof the party rescued was guilty, and to which he was liable.

If any hinder by rescue, or otherwise, the ex- Five pounds coution of the Statutes against Rogues, or for good behaviour

the poor.

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A man may make himself parcaker of anothers 39 Eliz.3,4: offence also by an escape. And this either volunburary or ary or negligent. If one have a prisoner under negligent, arest for an offence, and he do willingly suffer him to escape, this in most cases is as great and sangerous an offence as the first; as if the first offence be treason, this is so also; yet if the first offence be man-slaughter, this is only fineable. But if the primitive offendor escape against the will of him that bath the custody of him, this offence is onely punishable by fine and imprisonment. If a man be slain in the day, and the 3 He7.12. Felon not taken, the Town-ship is to be amerced.

A man may make himself in some measure by misprissionguilty of anothers offence by concealment of
it. For if one conceal a Treason, this is a misprission of Treason, and is selony. And if one
conceal a felony, this is a misprission of Feloay, for which a man is sineable; for every man
is bound as much as he may, according to the
duty of his place, to prevent and hinder these
evils. And therefore if one stand by and look
on whilest a man is slain, and do not his best to
prevent it, or after he is wounded to attach the

mur-

Part II. murderer, he may be indicted and fined for it. Chap. 6. And fo if he arrach him, and after let him escape.

1 H.4.12. Ltamf 45. Sedt. 13.

Now we shall descend to the offences which are veniall, and of a lower nature; And first of fuch offences which are directly against the peace of the Kingdom.

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Trefpages.

These are some of them accompanied with a kinde of violence, or at least a shew of violence. And some of them are without violence, and accompanied with kinde of fraud, deceit, or negligence. The first fort are either extraordinary, as Maimes, Riotous, and forcible un awful Entries, or the like; or ordinary, as affault, battery, and the like. And all these are within the Commission under the word Treipaste.

Maimes,

If one maim another, that is, by violence grievous Fine. offered to his person, deprive him of the use of any one of his principall parts, as his Eye, Foot, Hand, Fore-teeth, Head, or the like, or break his skull, or any bone of his bodie, whereby he is leffe able to defend himself, or offend his Enemy. For this he and his accelfaries shall be grievoully fined. But if it be fuch a hurt as is onely a deformity in the body, as the cutting off the Bare or Nole, or beating out of the grinding Teeth, or the like: This though it be a wound, yet is no maim.

Lying in Wait. Fine.

If any have lain in wait to maim or kill another, so that he dare not go about his businesse; This in the Commission is thus expressed, De his qui ad gentem nostram mathimand. vel interficiend. in infidijsjacuer.

If any challenge another to fight him, it is inditable, especially if he send a challenge in If writing.

If any receive any such challenge, and dis- Part II. dose it not to a Iustice of Peace within 24 hours Chap. 6. er if any knowingly carry fuch a challenge be- Challenge, ween others. If any fight any duell or be present at fuch a fight, or do not endeavour to hinder it. ord. Func 29.1654.

If any do outragiously or riesously pull down, boufes, Parks, or i poil any houses, pales, Mills, Dove-houses &c. fine, Imbayes, ditches, inclosures. Or spoil, or rob any moneths, fish-pools, Parks, Warrens, or take any Hawks

or Hawks eggs, or the like.

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If any do maliciously strike another in the striking in a Church or Church-yard with 'a Weapon, or Churchyard draw a weapon to that purpole, this is a great lofte of an ear. offence. So to strike another in the presence of with an F aludge is a great offence. Soto ftrike an Offi- good behaviour. eer, especially in the doing of his office. So for a lervant to frike a Mafter, Dame, or Overfeer, is a great offence.

Ordinary Trespasses sollow. If a man do unawfully affault, imprison, beat or wound me, er unlawfully take away, break, or spoil my goods; chase, kill, or hurt my cattell, break or mer into my house, enter into my Land, cut, poil, eat up, or tread my graffe, or corn, break my Wals, dig or carry away my earth or coal, op, fell, bruise, or break my hedges, or Trees, arry away my wife, fon and heir, or ward, or inlawfully arrest my goods or cattell, break, or our my Sluces, or thear my theep, let out the water out of my Mill-pond, bear my Servant fo that I lose his tervice, or do to me any other such like wrong, for which I may have an Action of Trespasse against him. For this offence he may be indited and fined in this Court. And yer

Part II. I have my Action against him notwith Randing, Chap. 6. For in all thefe Acts there is a double offence, the one against the Common-wealth, for which he is to be punished by fine the other against me, for which I by my fuit shall have amends in Damages.

If any lewd person have or hath procured to Firft effence zbe unlawfully cut or taken away any Corn grow. a offence whip- ing, or rob any Orchard or Gardens, or break ping and good behaviour, and and cut any Hedge, Pale, Raile, or Fence; of house of corredig, pull up, or take away any Fruit-Trees, or cut or spoil any Woods, under-woods, Poles, or stable to be committed till be fracure him Trees standing, net being Felony. co be whipped. 4 El-7. 7 lac.4. Imprifonment' 3 monoths:

If any have by night or day unlawfully broke or entred into any Park impaled, or other feverall Grounds included, used for keeping of Deer 3 or in the night time unlawfully, and Fine 13 Jac. 13, there hunted, driven, or chafed out, taken of

7 Iac.13. killed any Deer or Conies against the Owners will.

3 Damages.

There do follow in the next place fuch Trefpaffes which are accompanied more with fraud and deceit then with force and violence.

Sca. 14. Confpiracy. Fine.

Slander,

3 R.1.5.

imprisoned till

he finde his

Authour, or

If any do conspire and confederate together, to cause another to be unjustly indicted for an Offence, whereof he is afterward acquitted And in this four things must be known, 1. That there must be two or more persons in the plot of practife. 2. There must be an Inditement and Arraignment of the party. 3. All this must be voluntary and advised. 4. The party indired must be in lawful manner acquitted, otherwile the party is not indicable. good behaviour. Well 3-14.

If any by writing, printing, speaking, or other wife device and spread any falle and seditious

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news, lies, or rumours, whereby discord may a- Part II. rife between the people of this Common-wealth, Chap. 6.

If any do libell against another man, that is, make or promote any scandalous writing or do-Libelling to the defamation of another man, especially

if he be a Magistrate.

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If any man flander me by fuch words as for Slanderous which I may have an Action of the Case, as to words. Say I am a Traitor, Felon, Thief, Robber, or the like, for this he may be indited and fined. Cook Par. 4. But not for words that will not bear an Action, Indian, though they are Motives to the Breach of the Peace.

If any speak any disgraceful or provoking words to or of another, or use disgraceful or provoking gestures towards another, for these by a new Law he is to be fined, and imprisoned, and give the party wronged such recompence as the suffices shall set down, and lie in Bridewell till

he do it. Ord. June 29.1654.

Action of the Case for the deceit; It seems for this offence he may be indired also. And therefore if one sell me that which is none of his own, or sell me talfe and deceitful wares, or play with me with false Dice; Or being a Millard do change my Grist, this is punishable here. And so is any misseasance by a Nusance, or otherwise where Nusance, and Ction of the Case lieth, and the Writ is spainst the peace. And therefore a man may be punished here for stopping a ditch, whereby my ground is drowned, over-riding my horse, disturbing me in my way, Office, Buriall, or the like. So for stopping of my lights, laying blocks

Part II. blocks in the High-way, whereby my horfe is occasioned to stumble, and I am hurt. So for any other Nulance done to men in the Water, Ayr, Light, or Waies; as by fetting up houses of Office, Lime kils, Dye-houses, unnecessary gates, or turning of waters in the High-way. But to fet up a new Mill, a new Pidgeon house, or a new Coniger is no Nusance.

Ifmy water any Hemp or Flax in any River, Watting hemp. stream, or common pond where Cartell use to

drink.

Falle tokens Any corporall death the tuflices thall fet down. 31 H. S. I. Forgery, Fine, and imprifen.

8 H. 7.17.

If any one get the good of another by privy punithment but rokens or cournerfeit letters, in other mens names to persons that are their special friends and acquaintance,

> If any forge a deed, that is, make and publish any falle deed or writing to the prejudice of anothers right, either to charge or get his Land or goods; as if a Copy-holder make and publish a Customary for an ulage, and put seals to it, to the prejudice of the Lord, or one forge a Teftament, whereby a Leafe for years is given, or if any man make use of any such deed, knowing it to be so forged. These may be punished by the Common Law, but the power of execution of the Statute is not given to the Justices of the Peace.

S Eliz.t 4.

Seff. 15. Ride armed Imprif, loffe of Al mour. Stat. Northamp. Volawful AC temblies,

Thus much of Trespasses by force or fraud.

If any man but fuch as have authority, go, or ride armed in an unufuall manner, this is an affray and breach of the Peace, and every man may arrest them. This offence is thus expressed in the Commission; Of those who in Conventicles against our peace, to the perturbation of our people, or with armed force have gone or rid.

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'The charge for quarter Seffions. Part II.

t Chap. 7

If three or more come together with an intent Chap. 7. violently and forcibly to commit an unlawfull Act, as to beat or wound a man, enter into, break or pull down some house, wall, pale, hedge, or ditch, wrongfully enter into a mans possession to claim, or take a common or way, to destroy any Park, Mill, or stacks of corn, take away a mans wife, or the like, and they do willingly depart, and do nothing, yet this is an unlawfull mee-

ting, and punishable.

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If after their in eting they move forwards towards the execution of the act, whether it be done or no it is a Rout. And if it be done it is a Riot. So that every Riot doth include a Rout, and an unlawfull Affembly. And that act which is a Riot in the execution, is a Rout, and an unlawfull Affembly in the preparation. And that which is an unlawfull Assembly in the first meeting, is a Rout in the further proceeding, and a Riot in the finall execution. To this there must go three things. 1. There must be three persons at the least gathered together: 2. Their intent in the first meeting must be evill. 3. Their being together must breed some apparent disturbance of the Peace, either by speech, shew of Armour, turbulent gesture, or actuall and expresse violence, to affright peaceable men, or embolden light men by their example.

If any flir up another to do such an act, or if any be stirred up hereunto, and do not within twenty four hours after disclose it to the Sheriff, or a Justice of Peace. But herein you must know, that this doth not prohibit Assemblies to lawfull ends, as to do execution of Justice, to take down common Nusance, for a lawfull Regreation, or the like.

Chap. 7 Affrey.

If any great affray be made in a diffurbance of the Peace, and you are to find who they were that did it, and in what manner it was done.

Prophecy 10.1. Imprisonment a prif.during life Porcible entry, or deteiner.

If any divulge any Prophecie with intent to make Rebellion, or other diffurbance in the Realm.

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But he must be charged within fix moneths

goods and chat- after the offence is done.

Benerifonmens. Tine, and to reand upon pleiges found) deliver them. Make reftitution but not without Inquiry.

If one make forcible entry into Lands, and do forcibly detain Land (that is) do violently and actually enter into any houses, or Lands, or take more the force, any diffress being weaponed, whether he offer violence, or fear of heart to any there, or furioufly drive out any out of the possession thereofor not, or having entred into the Lands peaceably, doth after hold the same with force, which is faid to be a violent act of refistance by a strong hand of men weaponed with harnels, or other action of fear, by which the lawfull entry of luflices or other is barred or hindred: for the berter understanding whereof, you are to know these things. 1. That one man alone may commit this offence. 2. That an Infant or feme Covert, as they commit most other criminal offences, so they may commit this offence. 3. If divers come in company to do this or any other Trespass, and one of them alone doth the wrong, and the rhe reft stand by, and look on, and do not withfrand it, they are all guilty. 4. If it be done by three or more, then it is a Riot, which of his own nature is a great Trespass also.

9.K.s. 9.15. K.s.s. 1, H.s. 9. 31.Eliz. 11. et.Tac.ig. ..... Riot.

> If any one above fifteen years old, under the degree of a Knight, required by any Justice of Peace, or the Sheriff, to affift in the suppressing

Tiret Fine.

The charge for Quarter Seffions. Part. I I. of a Riot, and the punishment of the Riotecs, re- Chap. 7. fule it.

Offences against the Justice of the Kingdom. Sea. 15. The Statutes of Winchefter are especially com-

manded to be given in charge, the Articles

whereof are as followeth.

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For the apprending of Felons, Hues and Grind Crys must be solemnly made in all Counties, and Hundreds, Markets, Fairs, and all other places where refort of people is, & immediately upon the Felony committed, fresh sute must be made from town to town, and country to country; & every man as well within Franchises as without, Franchises is to be ready at the commandment of the Sheriff, and cry of the Country, to fue and arrest Felons, Stat. of Winchester 13. Ed. 1. Cb.2. So that if a Felony be done, and he to whom it is done, or another of the company, or some other commeth to the Constable of the next place, and doth tell him of it, and describe the Felon, and which way he is gone, the Constable is presently to call upon the Parish, and they are to make a fresh pursure, and an earnest and diligent search for him; and if they find him not, to tell the next Constable, who with his Parish also are to do likewife, and fo to follow the purfure of the Felon to the Sea fide, or till he be apprehended.

If any Sheriff, Coroner, Steward, Bailiff of Dak Mar. Franchise or other, shall for fear, favor or re-Ward, conceal or confent to the concealment of any Felony, or do not his office in the arresting of Felons, and his endeavour to punish them, if any neglect thereof have been therein. If flues & Cry have been raifed without cause, or leving cause, if they have not duly raised, and AR-

Chap. 7. effectually pursued, you are to present it.

In great walled Towns, the gates must be shut from Sun-setting to Sun-rising, and no man is to lodge in the Suburbs, nor out of the Town, from nine of the clock till day, unless his host will answer for him, and the Bailiss of the Town must enquire of such persons, once within every fifteen daies, and if they find any man to have harboured such suspicious persons, they

Stat. Winch.

You are therfore to enquire whether the watch be kept from Ascension day till Michaelmas, from Sunset to Sunrising, and with a number of men, as is fit for the place. And if any stranger pass by them, they must arrest him till the morning. And if then he seem suspitious, they must deliver him to the Sheriss. If otherwise, then they are to let him go; and if he resuse to submit to the Arrest, and get away, they may send Hue and Cry after him, till he be apprehended.

are to be punished as breakers of the Peace.

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Stat. Winch.c. 4 2 M.4.3.

Sed. 17:

There are many Lawes that do concern Officers, Sheriffs, Bailiffs, Constables, Escheaters, Ordinaries, Coroners, Clerk of the Market, Overseers of the poor, and others. They altogether speak thus much in the generall, that Officers must be skilfull, and faithfull, attend their charges, and be content with their wages. If any negligence or corruption be found in any of them, it is to be punished here.

This offence is thus fet forth in the commission. As also whatsoever Sheriffs and other Officers, who in execution of their offices about the premises, or any of themunduly have behaved themselves, or slack, remise, and negligent have been.

If any under-Sheriff, Bailiff of Franchise, or Chap. 7. Sheriffs Deputy, appointed to have to do in the sheriff forty returning of Juries, or execution of process, do pond, the imintermeddle therewith before he hath taken pond in 
If the Sheriffreturn issues upon Jurors not ha- 27 E's.5.

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If a Sheriff imbezle a Writ, or make a falle Trebledanreturn. Trebledan-

If he or his Officers levy the publick debts by Rolls, and not by Estreats under the Exchequer Seal, 42. Ed. 3.9. or they do not roll that which is paid, so that he be made to pay it again, or take unreasonable distress, or take a mans sheep, or Plow Cattell, when there is enough other, or distraines the Fee of the Church, or drive the distress out of the County, nor out of the Hundred, but to a Pownd overt, within three miles.

If any Sheriff let his County, or any of his Letting his Bailwicks, Wapentakes or Hundreds, or have Return of Paureturned in any Pannels, any Officers, or their Servants, or Servants Servants, have refused to let to Bail upon sufficient Sureties any person arrested on an action personal, or an indicament for Trespass (not being in for condemnation, exetone, tre le cution, outlawry, excommunication, Surety of dannages to the Peace, or commanded of any Justice, or for vestobeing a vagabond, or if he have taken any obligation by colour of his office, but only to himself, and upon the name of his Office, and upon condition only to appear according to the Writ or Warrant.

E 5

Chap. 7.

If any Sheriff or his Ministers have entred into his Book any Plaints in any mans name, nor being present at the Court himself, or by his sufficient and honest Atturney, or Deputy; or if he hath entred any more Plaints then the Plaintiss supposet he hath cause of action for. Or if he hath levied the Shire amerciaments without a book indented between him, and two Justices of Peace. Or if the Bailist of the Hundred have made default in warning, or executing any Warrants against any Desendant in the Sherists Court; Or if the Bailist be not sworn before the Justices of Peace, to collect no more money then

Forty in Hings

11. H. 7. 19.

what is in these Estreats.

Or if the Sheriff do not see that the Plaintiff do put in pledges to prosecute his Action.

Return five marks to the King five marks to the puty, If any Sheriff that hath the return of any Writ, return any Juror without the addition of his place where he doth now, or did within a year past dwell, or some other addition whereby he may be known; or if any Estreat of issues hath been gathered of any person other then such as by vertue of the said Estreat was of right chargeable.

oy Bliz. 71 Domble value, If any Sheriff or his Officers having received money for the forfeiture of a man for felling of Beer to an unlicensed Ale-house upon the Statute of 4. Jac. 4. and resule to pay it to the Church-wardens and Overseers.

Return of No. Tors to pound. S. H. 6 9.

If he do not return sufficient Jurors to enquire of forcible Entries, or otherwise neglect the suffices warrant.

Bleikel he Market The Clerk of the Market, or other Officer for that purpose is to mark and seal such weights and measures as are brought to him. 2. Accor-

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The charge for Quarter Seffions. Part I I. 67

ding to the Exchequer measure. 3. This he is Chap. 7.

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If a Gaoler suffer a prisoner to have more li-Goler sands. berty then is fit, for prisoners must be kept in safe and close custody. Or if he resuse to take in such prisoners as are sent to him, or suffer escapes.

If any Steward of a Leet, or Officer of Mar-Stew rd of Leet ket Town have taken any fine for breach of the Affize of bread or beer in such cases where cor-

porall punishment is appointed.

If the Coroner do not come upon request, and coroner 40. 8, enquire upon the view of any person slain, drow-

ned, or otherwise dead by misadventure.

If any Escheator take upon him the office, not Bishetors 48; having twenty pound a year Land in the County, or sell or let to farm his office, or make Deputies for whom he will not answer, or whose names he hath not certified unto the Exchequer within twenty daies.

If the Ordinary delay to prove Wills at the Ordinary 10, pay, and fees appointed, or to grant administra-possed, tion according to the Statute, or to deliver Co-

pies of Testaments or Inventories.

If any owner or officer, ruler of a fair, have Owners and renot appointed one certain open place there, for Markets fony
fale of horses, geldings, mares, and colts, and boand,
one sufficient person to take toll, and keep the
said place, and take toll there from ten a clock
to Sunset. And take any toll after or before, or garden,
else-where. And if he have not the parties contracting, and horse for which the contract is
made present. And do not take and keep a
book, and therein write the names of the persons contracting, the place of their dwellings,

E. 4.

2 a'd ;. Ph. and Ma.7.

68

Ghap. 7, and colour, or some speciall mark of the horse. If any have in any Fair or Market fold or put

Fire round every default.

away any kind of horse, untill the Toll-taker or chief Officer there will take upon him perfect knowledge of the person, his name and place of dwelling, and enter the same into his book. Or unless the seller bring to the Toll-taker one credible man that will testifie that he knoweth the man, his name, mystery, and place of dwelling, and then enter the same. And the names, mystery, and place of the testifier, and the price of the horse. And if any restifie that doth not truly know the same. Or if the Toll-taker shall refuse to give a note to him that buyerh of that entry, paying 2. d. for it.

31 Eliz. 11. fault. and 3. Ph. and Ma-

If the the Toll-gatherer, or Book-keeper do not within a day after the Fair or Market bring his Book to the Governour. And if he do not cause a note to be made of all the horses sold, and Subscribe his name or mark to it.

Mead Officers of Towns, fine 11 H.7.4. 8 13.

If Head Officers of Towns have not twice a year made view & examination of the weights and measures there, and break and burn the defective.

If the Constables and Church-wardens do not present the monethly absence of Recusants 

Co fat Irs, O. weif er ofthe poor, Church w Liens.

If the Conflable or other Officer do not his office against Drunkards, upon 4. Fac. 5. Of if he do not his duty in the levying of money upon Ale-house keepers according to the Statute.

1 Tac.9. 10 % to heleviel by diffre's and fle 2 fh I. Do ble ih: makue.

If the Condable hath not punished Rogues according to the Statute of 14. Eliz.5. 1. Fac.ch.7. especially when they are brought to him.

If the Church-wardens and Overfeers of the poor,

The charge for Quarter Seffions. Part II. 69

poor, to whom mony forfeited by 4. Jac. 4. is Chap. 7. payed, do not bestow the same amongst the poor, according to the Statute of 1. 7ac.

If the Church wardens do not levy the money for the relief of prisoners, according to 14. Eliz.

5. 1. Fac. 25.

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If the Constables and Church-wardens do not in Easter week chuse Supravisors every year to 20 th Hings, look over the high wayes according to the Statute of 2 dy 2 Ph. dy Ma. ch. 8. ser airon bus.

If Conftables do not affift men against the un- 10 H. 6. 8.

just taking of Purveyors, being required,

If either of these Officers flight or neglect to Fine execute the Justices of Peace his Warrant, in case where they have authority, and are commanded by it.

If Conftables and Church-wardens do not pull Five faillings down Maypoles within their Parish. week, 5 sound, good behaviour-

If Overfeers of the poor put out fuch poor out of their Parish, as ought not to be put out a-

gainst 30. Eliz. 4.

If the Over-feers of the poor do not their duty - Gilling according to the Statute of 39 Eliz. 34. 43. Eli- every sefault. zabeth cap. 2. as to fet the poor on work, make and levy rates, meet monethly and give ac-

If Constables and fuch like Officers do not If they refuse to their heft to keep the Peace, to part Affrayers, give account to keep them afunder, and if he do not bring them

to prison when he hath done.

If the Minister of the Parish do not keep a Minister. Register Book to enter the Testimoniall for Rogues, according to 39 Eliz. 3 & 4. And there must enter Licenses for fick persons to eat flesh. and a Testimoniall for servants departing from their

Chap. 7. their Masters. If a School-master formerly ejected out of a place for scandall, or ill affection, teach Schoole in the same place, or any entertain him there. It is ten shillings a day for-

feit. Ordin. Aug. 29. 1654.

Seformes 28. Eliz. 5. 37.El Z 100 1. El Z. 4. lory two hours on a me & t day, to . l. and devoted.

If a common Informer inform after he is legally put out, or being duly in, compound with any offender, without license of the Court; or doth follow any fute by his Deputy, and not in person, or by his Atturney in Court: Or if he compound before the Party answer, or after, or take any reward or promise, without confent of the Courts at Westminster, or one of them.

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Sawger fout 6 mes the value of that which ch: weffe. | Shall

If the Gawger do not Gawge all the Veffels that come into this Realm within the limits of his Office, according to the contents of the Statute, 28. H. 8. 14. and mark upon the head thereof his content, according to 1 R. 2. 12.

If Bailiffs and Heads of Cities, Burroughs, and Market-towns, and Lords of Liberties out of fuch places, do not yearly appoint and fwear ewo or three, or more, skilfull and honest men, to be Searchers and Sealers of Leather there. and fix honest men to try it. Or if fuch Searcher, or Sealer refuse to execute his Office; or if Tryers refuse or delay, and do not their duty, or if Searchers, or Sealers refuse or delay to seal good Leather, or allow unsufficient Leather, or receive any bribe for executing of his Office.

Searchare and fealers of Louber 40. L To perid

Stropouri. Sourty thi lings a lat. so.

If the Treasurers of the County stock for poor Trafferen for beimes fouldfmaimed Souldiers and Mariners, do their duty on, 43, kliz. 3. Seen ben of This 10 s. op sy default. 19. Bd. according to.

If the Searchers of Tyle appointed by the Juflices

41.

The charge of quarter Seffions. Part II. flices of peace, do not fearch the Tyle, and pre-Chap. 7. fent the defaults of Tyle-making at next Seffi-

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If an Atturney fue another man of his own head in anothers name, without authority, or discover his Clients counsell, or the like; or he admit another to follow futes in his name.

If the Supravifors of High-wayes do not let supravifor of the Inhabitants their dayes for work for them the high wares and their Ploughs, and fee they do it, and pre-Ph.M.R.J. ME fent the defaults according to the Statutes to house of comthe next Justice of Peace within a moneth.

If the Governour of the House of Correction do not his duty according to 39. Eliz. 4.

If the Over-feers of cloth appointed by the overfeer of Justice of Peace, do not their duty, in looking cloth roll crees to the cloth that is made, that the Ordinance of B.Ed.6.2. Parliament be observed. They are once a quar-st. is. ter at least to visit the Houses and Shops of 43. Eliz.10. Cloth-workers, Dyers, Drapers, and to view the tobe commit. Cloth made. Or if they refuse or neglect their s.l.commit.th Office, or to take their Oath. If they refuse to pyment. appear, or be bound in a Recognizance.

If the Collectors of the money for the relief collectors for of the prisoners in the common Gaole, do not common Gaok,

their duty according to 14. Eliz. \$.

If Purveyors take goods, and not pay for them; Of if any fuch Officers have procured any to be arrefted, or vexed, for refistance of their unjust demands. If they take Sea-fish from any Seaman against his good will.

If any Purveyor of Timber have felled any 6.5. 12.18.6.2. Oak-timber fit to be barked, but according to ger and !.

the Statute of 1. Fac. 22.

le be. f. Hig. c. g.

Chap. 7. If the Treasurers for the relief of the prisoners in the Kings bench and Marshalfey, do their dushe Kings Bench ty according to 42. Eliz. 2.

Sell. 18. Extortion. Finesh'e. e. H.S. 27. If any Officer by colour of office, be he within or without a Liberty, require more money for the doing of any part of his office, then is due and appointed, this is extortion. And this is within the Commission, in these words, Of extortions.

By Westm. 1. 3. Ed. 1. No Minister of the Fire. 1. P. 170. King may take any reward for doing his Office.

Seriff or his Officers.

40 I. for every

offerce.

The Sheriffe is not to take above 20. d. for an arrest; neither he nor any Officer of his to take any thing for any Return or Pannell, or to take above four pence for the Obligation, or any Warrant or Precept, nor is he or any Bailiff to take above four pence for any Arrest: Or the Gaoler to take above four pence upon the commitment of any person arrested to him; neither he nor the Gaoler are to have any thing of Constables, or Townships, when they deliver in Felons to them, yet they are to receive

Treble damages to the party grieved.

23 A.s. to.

them.

The Sheriff for doing execution upon body, lands, or goods, is to have but twelve pence the pound under a hundred pounds, and fix pence for the refidue.

Efchester.

An Escheator is to take for the execution of a Diem clausit extremum, or other Writ in one County, but forty shillings in all. And if the lands be not above five pounds, he is to take but sitteen shillings in the whole. And where the lands are not found to be held in Capite, he is not to take any thing at all.

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# The charge for Quarter Seffions. Part I I: 73

The Coroner is to do his office upon the view Chap. 7. of a dead body by miladventure, without taking coroner 40.5. of any Fee. And upon the view of a dead body slain, he is to take but thirteen shillings four pence of the goods of the murtherer, if he have 5.1.7 H. 7. 15 any, otherwise of the Town where he was slain in the day time, and suffered to escape.

The Justice of Peace for the involment of a Justi e of Peace, Deed, is to have no more than the Clerk of the 27 H. 8. 16.

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If the goods be not above five pounds, the ordinary. Ordinary is to have for the probate of the will,

or letters of Administration, but 6. d.

If above five pounds, and not above forty pounds, 2 s. 6 d. for the Ordinary, and twelve much as they pence for the Scribe. If above forty pounds, then take more than two shillings fix pence to the Ordinary, and two shillings fix pence to his Clerk. Or else one peny for ten lines at ten inches. The like must 2 H. 2. 8. be given for the Copy of a Testament, or Inventory, and to take more is Extortion.

Ministers must take but four pence for the license of a sick person to eat sless on a Fish-day: and as much two pence for a Testimonial of a Servant de-above as he

parting from one place to another.

If any Ordinary, Parson, Vicar, or other, take Mortuary 40 b money for a Mortuary where none is due, or and as much more than due where it is due, this is Exportion,

5 Eliz. 4. 9.

The Clerk of the Peace is to take but twelve cle k of the pence for inrolling any bargain and fale of land Pucce. not above forty shillings a year, but two shillings fix pence if the Land be more: He is to take but two shillings in all for any License and Recognizance of a Badger, Drover, Kidder, or Lader,

der, and for the registring thereof; and twelve Chap. 7. pence for a License to shoot in a Gun to kill Hawks-mear, and but twelve pence for a Recoga7.H.8.16. nizance of him that taketh a Rogue into his fer-9. Eliz. 13. vice but one year. And he is to have nothing 2 Iac. 37. 14. Eliz. f. for the recording of a presentment of the B. Inc. d.

monethly absence of a Reculant.

Mayor.

7. H.7.15.

If any Mayor take above a penny for fealing a Bushell, & all other measures above a half-penny; or above a penny for an hundred weight. or a half penny for half a hundred weight, or a farthing for a less weight.

Clark of the Market.

If after he hath once sealed, he take any thing for the fealing thereof again, or for the shewing And he is to take no money for any bills, &c. or examination of weights, &c.

He that keepeth the Standard for the Shiretown, is to have for fealing a Bushell one penny, for the other measures an half-penny; for every hundred weight one penny, for half a hundred weight a half-penny, and for less a farthing.

Cook. 1 part. of

The Clerk of the Market is to have four his Inflay 4,205 pence for marking and fealing a Bushell, two pence the half Bushell, one penny the Peck, and fo for the rate; if he take a common fine, all this is Extortion.

Clerk of the Petce. 3.Ed.6 29. 3-21 Elix.12.

If a Justice of Peaces Clerk take above rwelve pence for a Recognizance of an Ale-house-keepa. & a. P.& w. per or Tipler.

The Tol-gatherer is to take but one penny for one Contract, and letting down the names of the parties thereunto, and two pence for a note of the Entry.

The Searchers of Tyle are to have for every thousand plain Tyle one penny, every one hun-

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The charge of Quarter Soffions. Part II.

dred roof Tyle, one half penny, and every Chap. 7. hundred Gutter-tyle, and Corner-tyle one Farthing.

If any man take above four pence for impoun- 1. & 2. Ph.

ding one distress.

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If any Officer he opposed or abused in the Sea. 19.

execution of his Office.

If any man break or open the common Pound-breach pound, and take or let out any Distress which was therein, or let a man out of the Stocks, or the like.

The instruments of Justice, as Stocks, Pillory, rements of Pounds, and the like, must be had in all places; Talica. and they must be such as are usefull, and defaults herein are to be presented.

Now follow the Articles which concern the Sea. 20: Trade of the Kingdome, buying and felling, and

Tradesmen.

There are many Laws that concern Trading Teading and and Traffique, which may be thus reduced: Traffique. 1. None may exercise some Trades before they Approximately have been trained up in them. 2. Tradefmen must sell true, not false and sophisticall commodities, especially provision. 3. They must sell at reasonable prices, and for moderate gain. Prices 4. Bakers, Brewers, and fuch like Taadelmen. must keep the Affizes. 5. All Tradesmen must fell by just weights and measures.

The offences against the Laws, are either in their entrance into their Trades, or in the use

and exercise of their Trades.

Those that are in the exercise of sheir Trades, are; 1. In the persons selling, or to whom the things are fold. 2. In the preparing, making, elling, or in the commodities themselves, and ehings

Chap. 7. things fold. 3. In the places where the things are fold. 4. In the prices of things fold. 5. In the measure or weight by which the things are fold. For the refiftance of which diffempers. fome Lawes are made for prevention of the difease before, some for the correction and cure of the disease afterwards.

If any fell Wine or Ale without authority or

Lirenf. Licenfe. Apprentice 10 l.

Wine,

# CAT. 4.

7 Ed. 6.5. Licenie.

8 and 6 Ed. 6.35 If any man have used or occupied any Art or Manuall Occupation used in the fifth year of Queen Elizabeth, which hath not been brought up therein seven years at the least as an Apprentice. Yet Church-wardens and Over-feers may use any Trade for the setting of their poor a work.

> If any man during the time he hath used Occupation of a Butcher, hath also used the my-

Hery of a Tanner.

If any person (during the time he hath used the mystery of a Tanner ) hath used also the mystery of a Shooe-maker, Currier, Butcher, or of any Artificer using the cutting and working of Leather.

two moneths imprife ament.

If any by himself or other buy any wheat or otherwise, with intent to put the same in meal, flower, or otherwise, without license first had in open Seffions, under the hands and feals of five Juffices, Att. 22. 08. 1650.

If any Brewer of Ale or Beer to fell, shall use the mystery of a Cooper, or make Barrels, &c.

23 H. 8.4.

If any person other then such as had a Tanhouse, 19 Martii 1603. and did then occupy Tanning of Leather, or hath been taught as an

Treble value,

Batchers 6 .. B d. every day.

she hides, and

akins tanned. 1 Iac. 23,

# Tac. 23. Tanners lofe

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### The charge of Quarter Seffons. Part II.

Apprentice, or hired fervant, feven years in the Chap. 7. mystery of tanning Leather, or hath been wife Lote all the less to a Tanner, or fon of a Tanner, brought up in ther tanget. that mystery four years, or the son or daughter of a Tanner, or fuch person as hath married the wife or daughter of a Tanner (that left to the fame his Tan-house and Fats) have tanned any Leather, or taken any profit by tanning thereof.

If any person being a Currier, hath (during Six Bill. eight the time that he hath used Currying) used the hide or skin. feat of a Tanner, Cord-wainer, Shooe-maker, Butcher, or other Artificer using cutting of Lea-

ther.

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If any one to whom any unlawfull Leather Tree thill fort hath been given by the Statute, have given or penceby the fold the same to any person that hath sold the fame again.

If any man forbidden to make Malt to fell, do Maltier.

If one fell another that which is not his owu, bey and after the owner take it away from him that Chestes. bought it.

If any Brewer fell his Beer to any unlicen- Brewer 61.0 d. fed Ale-house-keeper, except it be for his own 4 Ja . 4.

house.

If a Victualler fell flesh on a fast day to one that hath no license to eat it.

If any one have bought to fell again, or fold Every Deer 40 any Deer, Hare, Partridge, or Pheafant, not milling Pheabrought up in his houle:

If any perion have bought, contracted for, or I Jac aparties bespoken any rough hide; or calves skin in the hair (except falt hides for the necessary use of thips ) but such persons only as shall and may by

ence for each

give bond to ..

S Bliz, S.

fant so s. Pastridge 20 %.

12 25 4 39

this Act can the same, or will tanthe same. Chap. 7.

If any person hath bought, sold, or bespoken any canned Leather, not wrought into made wares, Cother then shreds or necks of Sadlers and Girdlers) but such person only as will convert the fame into made wares.

2 24. 6. p. g Blie, te 35 El A. 7. 2 Iac. 19. Viltualler fell Cottenet viftuals Tipes.

Tamast, 4d.

lenke.

if any in-keeper or Victualler fell flesh on a prohibited day, or any man eat it on fuch day.

If any Victualler fell, or offer to fell any corrupt or unwholesome Victuals, as flesh messed, that died of the Murrain, or the like.

If a Tanner put to fale a putrified or rotten

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Arrow-head Smithlofe the head Impl. Fipe. # H. 4. 7.

If any arrowhead Smith have not well boiled, brased, and hardened at the point with steel, and marked with his mark such heads of Arrows and Quarrels as he hath made.

Deceit in fel-Buchers afte log every his 8 Tag. 28.

If one fell another deceitfull wares, and know them to be fo, and warrant them to be rights for otherwise (except it be victuals ) it is not in-

dirable by the common Law.

If any butcher have gashed, slaughtered, or cut the hide of any Ox, Bull, Steer, or Cow, whereby it is impaired; or have watered any hide, ex-

cept in June, July, and August.

If any Tanner have suffered the same to lie in the Limes till the same be over-limed: or have put the Hides in any Tan-fats before the Lime be perfectly wrought our of them for have used any thing in tanning but Ash-bark, Oak-bark, Tapwort, Malt, Meal, Lime, Culverdung, or Mondung : or hath fuffered his Leather to be frozen or parched with the fire or Sun : or have ranned with Cotton hides: or have not forkred the stides for outer feet leather to lie in

Lofe the hide ac relacij

### The charge of Quarter Seffions. Part IL

the Woozes twelve moneths, and for the upper Chap. 7. Leather nine moneths: or have negligently wrought the Hides in the Woozes: or have not renewed their Woozes as oft as was requifite: or have put to fale any ranned Hide not wrought according to the Statute.

If any Tanner have raifed with any mixture remerloft the any Hide to be converted to Backs, Bend Lea-hides, ther, clouting Leather, or any other foal lea-

ther except the same be fit for that purpole.

If any put to fale, or otherwise depart with Tanner. any tanned Leather (red and unwrought) but Forever hide in open Fair or Market in the places therefore of piece of leaprepared, unless it hath been first lawfully fear- and for every ched or fealed, in some open Fair or Market; theen then s or pur ro fale any Leather before it hath been ad and the first searched or sealed according to the Statute or their value.

If any Tanner put to fale any Leather mulf- Tanner fo made ficiently, or not throughly tanned, or not well leather. and throughly dried, and the faine fo found by the Triers of Leathers appointed by the Sta-

tute.

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If any have fer his fars in Tan-hills, or other Tonner tra places where the Woozes or Leather to be tan-three market ned in the fame may take any unkind heats, or days. hath put any Leather into any hot or warm Woozes.

If any Currier have curried any Leather but Gurier & .. in his own house in a Corporate or Market \$4. and the ga-Town. Or have curried any Leather not well mend each skin tanned, or not throughly dried after his wet saling in the Seafon, or have used in such wer Seafons any de-the double to ceitfull means to corrupt the fame ; or have ourned any ontward foal Leather with any other fluff then hard Tallow, or less of that then the

Leather will receive; or inner foal Leather, or over foal leather, but with good stuffe, being fresh and not salt, or have not liquored them throughly, or have scalded or shaven too thin, or gashed in shaving, or otherwise, or not

wrought sufficiently any leather.

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Chap. 7

If any Shoo-maker have made any Boots, Shooes, Buskins, Startups, Slippers, or Pantofles, or any part of them, of English leather wet curried (other than Deer, Calve, or Goat-skins, dreffed like Spanish leather ) but of leather well Tanned, or Curried, or well tanned only, and well fewed with thred well twifted, waxand rosened, with the sticher hard draws with hand leathers, without mixing Neats and Calves leather, in the over leathers thereof: or have put into any shooes, Boots, dec. any leather made of Sheeps-skin, Bull-hide, or Horse-hide, or into the upper leather of any Shooes, Startups, Slippers, or Pantofles, or into the neather part of Boots (the inner part of the Shooe only excepted) any part of the womb, neck, fhank, flank, pole, or cheek of any hide, or into the utter foal, other than the best of the Ox, or steer hide; or into the inner foal, other than the wombs, neck, pole, or cheek; or in the Trefwels of the double foaled shooes, other than the flanks of any of the faid hides; or have put to sale in any year between the last of September, and 20 of April, any Shooes, Sand - with Boots, Buskins, Strartups, Sippers, or Pantofles, meet for any person above four years old, wherein hath been any dry English leather (other then Calve or Goat-skins dressed like Spa sift leather.) to work board gain to

# The charge for Quarter Sessions. Part. 11. 81

If any Gold-smith or worker of filver have Chap. 7. wrought any filver that is not so fine in allay as goldsmith. the sterling; or have not set his mark upon his work before he fet it to fale; or if any have Double value. gilded any sheaths, or any metals but filver, 1 H. 6.14. faving the spurs of Knights, and the apparell 8. H.; 1.

of a Baron, or fuch as are above that estate.

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If any Tile-maker have not digged and cast Tile maker. up his earth for Tile till after the first of Nov. or have not stirred and turned it till after the first day of February following; or if he have wrought it before the first of March following, For every hune or if he have not wrought, and tried it from dred of plain stones, veins, and chalk; or if he have made, or tile so, and every hundred any other put to fale any plain. Tile under ten of toof tile 6% inches and a half in length, fix inches and a ... quarter in breadth, and half an inch and a quarter in thickness, or any roof-tile under thirteen inches in length, and half an inch and half a quarter in thickness, with convenient deepness; or any guttet-tile under ten inches and an half in length, with convenient thickness, breadth, and depth.

If any fell meal in any shop within twenty miles of London, or within any other place of this Common-wealth, but in the publique Market place usually for that purpose, or sell meal in any other quality then as it comes from the mill. If they mix it, or if any use any bolting mill or other infrument in the dreffing or fifting any corn or grain, with intent to fell the same in meal or flower. Ord. 23. Odob. 1650. Treble

value, and two moneths imprisonment.

If any Malt be made of Barley but in June, Mikers : ie July, and August, to be fold, but what hath three very quarter.

weeks

Chap. 7. weeks time in the Fat, Floor, Reeping, and fufficient drying, and in these moneths seventeen dayes; and this hath been done within one

year last past.

The like Con-Stable with th advice of one may fell de mitfull mit. so i, a quarter 0 &c ş. h. 6.10. E Tac. 19.32. Pa. 25.

Chandlers.

Clothiere Fine,

pourds by dl-

want commit-

Bi la. 18.

meet. 3 Id. 6.2.

If any have within a year mingled any Malt not sufficiently made, or made of mow-burnt or Justice of peace spired Barley, with good male, and after put the fame to fale.

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If any within a year have fold Malt, till it be sufficiently and well fanned, trodden, and rubbed, so that half a peck or more of dust may

come out of a Quarter.

If any have fold or fet forth candles, or other

works of Wax to fale.

If any Cloth-maker have not fet his feal of Lead to his cloth, thereby declaring the just length thereof to be tried by the water. Or have put in any flocks, nails, or thrumbs into any broad cloth.

If any have firetched any cloth above one yard and a halfin length, or one quarter of a yard in breadth, or have put to fale any cloth that have fhrunk more in the wetting than is aforesaid. Or have stretched any narrow Streit or Kerfie above one yard in length, and a quar-ter of a yard in breadth, or have pur any such to fale, that have thrunk more in the wetting, or have put in deceivable fluff into the cloth.

Prisce them, fel ; ;; them, moreys to the poor, 3 El.20.15. D'ers of cloth so fhillings. 20 ; ounds and pillory, Prets of wedl

Weeks

If any use any Tenters to stretch their cloth. If any Dier of woollen cloth have died any brown Blues, Pewks, Tawnies, or Violets, that were not perfectly boiled, grained, or maddered upon the Word; and shot with good Cork, or Orchall fufficiently, 2 Ed. 6. 2. Or in dying of any Cloth, Wooll, Yarn, Grogeram, Buffins,

or Silk, or any thing made of woollen Yarn. Or Ghap. 7. if any Log-wood, or Block-wood, with other

Auffe in Dying.

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If any person have dyed any Wooll for 40 th. a cloth, Cloth, cailed Ruffers, Marbles, Grays, Bays, or makes doth. fuch like; or for Mats or Caps, unless it were perfectly woaded, boiled, and maddered; or have dyed with Brazill, to the intent to make a 20 Mill. falle colour in any fuch Cloth or Wooll: or a. have put any flocks, chalk, starch, or other deceivable thing upon any Cloth, (except certain Desembire and Cornwall Streights.) For all these Deceits seem punishable by the Common Law.

If any have occupied any Iron Cards, or Pi- Iton and, Sec. eards in rowing of any woollen cloth: or have lotthemail, fold any cloth by any leffe measure than after s the a forethe true content thereof, to be met by the Yard, of doth or the and worn in the Realm.

every Yard being an inch more by the Rule. If vin a to any fell any Cloth being preffed, to be occupied to the of it or the value of it 5 X 6 84.6. If any pressary kind of Cloth with the hot

prefs, or in any deceivable manner, but only Lines doll. with the cold prefs, 5 to 6 Ed. 6. Or if any los det, use any other deceit in making Cloth contrary most to 4 Jac. 2. 21 Jac. 18. or any other Statute.

If any have used any racking, beating, or cafling of any deceitfull liquor or other mean, with any kind of linnen Cloth, whereby the

time becomes deceitfull.

No Cooper may make any Veffell for Beer or Course Ale to be fold but according to the measures ap- as R. R. pointed, unless he set a mark upon him how much it is.

And they must fell them at such prizes as the

Chap 7. smill.4 d for every barreil, Riserkin and tirkin. 2 Eliz. 9. Prices. 3.0.21. Jaca 22. 5 BLZ 5.37.E Hz 1.28,H.S. 14 37 H. 413. 34 H.S. /.

25 H.S. 1. 13 R.a. 8.

Tabolder and Moftier.

1 Ofence fine. a of nce m prionm-n one moneta without ba Ir. 2 off-see pillo sy without mo-Bry. midger of Innekeeping 13. K.s. B. , H.4.2;. 2 L.Jac. \$1.

4 H. S. 10.

CIOWI.

.c: 344 :

Confpira y of Vitrallers, &cc. I effeice ten . Buunds.

Justices of the Peace at their Quarter Sessions after Eafter shall fet down and proclaim.

If Butchers, Fish-mongers, Inholders, Tiplers, Brewers, Bakers, Poulterers, and other Victuallers do not fell at reasonable prices, ha-13 R.2.8.13. Ed. ving respect to the prices they buy.

> If any fell Wine in gross or by retail, above the prices fee by the Lord Chancellor, Treasurer, and others appointed to fet it, and declared by the Kings Proclamation, if any be.

> If any Brewer or Victualler take more for their commodities than the prices the luftices of Peace do fet down.

> If any Inholder or Hoftler take any thing for litter, or take excellively ( that is) more than a reasonable gain, having respect to the Markets) for hay, horse-bread, or any kind of provision for man or beast; Or if he living in a great Town or Village, being a through-fare, wherein is a common Baker, that hath been 'feven years at the Occupation dwelling, make his horse bread himself otherwise he may make ir himfelf; but whoever make it, he must make it due Amze and weight.

> he increase of Choughs, Crows, and Rooks, tends to fearcity, and raifing of prices. Every man that hath land in the countrey, it to do his endeavour to destroy them. Any man with license of the Owner of the ground may destroy them, and then carry them away. If any Occurpier of a mannour, house, or land of five pounds a year value refuse to pay for the taking of them upon his ground in a sale a sale a hourion

> To prevent which in Traffique, you are to inquire. 1. If any Victuallers have conspired

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that they will fell their commodities but at cer- Chap. 7. tain prices; if it be done by a Corporation or a fercetweety posups. Company, they lofe their liberty.

1 2. off any man do at once keep above two pounds thousand sheep of all forts, contrary to the Sta- 1 gr. fong tute of 25 H. 8. 12. for the getting of fo much of commedities. one thing into one hand tendeth to the enhanfing of prices.

2. If any buy or agree for any thing comming Forefulling. rowards a fair, Market, or great Town; or moweth the Seller to raise the price; or doth disfwade him from bringing in the commodities to be fold in those places, this is Fore-stalling.

4. If one buy up commodities, as Corn, Regeting Wine, Butter, Cheefe, Fish, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs. Geefe, Capons. Hens, Chickens, Pidgeons, Conjes, or other dead victuals whatfoever, in any Fair or Market, and fell them again there, or in any other place within four miles thereof, this is Re-.cioxie grating. of the latenting and and the

5. If any get by buying or promife taking, Ingressing, otherwise than by demise of Land, or Tithe, any corn or grain, or dead victuals into his hands. wich intent to fell the same again, this is ingroffing; and these offences are specially named in the Committion: yas belts letter avail you

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of If any by himself or other, directly or indirectly buy any whear or other grain, with intent to fell the same in meal, flower, or otherwife, but by license duly had so to do, under the hands and seals of five Justices in the Seffions, he shall be taken for an Ingroffer. Act. 23. 04.1650. Tarmed to Horran To o

But the buying of Barley and Oats (without fore-Eshife L

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Chap. 7. fore-stalling) to make Mair and Oanneal. And such Victuallers of all forts, as Burchers, sishers, and the like, as buy victuals without fore-stalling, and fell it again by Retail, according to their Trades. The buying of provision by Inholders and Victuallers, and spending of it in their houses. The reserving of Rent Corn on a Istale of Land; the buying of sections, when he doth fell or put to lake as much again; nor the trans

g & 6 Hd. 6. 6. 2 Iac. 45. 31 Iac. 48, 5 BF2. 9. 91 Map. 50

fportation of corn from one Port to another by water; nor the buying of corn, fish, butter, or cheefe, by a Badger, so he fell it within a moneth; Nor the buying and felling of caucil by Drovers, (licensed, and not abusing their license) so they fell them forry miles off.

He that is charged upon these Statutes must be charged within two years after the offence is

done.

1 Isc. 12.

If any have gotten into his hands, or ingroffed any Oak-bark with intent to fell the fame a-

Bothle value.

g Ed. 6. 14. 6 t.

d. c hide,

1 Ist. 22,

If any have within two years brought any Oxen, Ronts, Steers, Kine, Heifers, Lambs, Sheep, Goars, or Kids Living, and fold them again within five weeks:

If any have forestalled any hide, or bought any hide our of the Marketor Fair, notes it be of such as killed beasts for their own provisi-

Double value, 9 &r 4. E 4. 6.
21 Ia 22.
Value of the thing fealed.
4. Eightfold demagn.

If any our of Landon, Westminster, or Southmark, buy to sell again, butter, or cheese, unless he sell it again by retail, and then if it be above a wey of cheese, or barrell of butter, 21 746.22.

If any Farmers felling butter and cheeft in

The charge for Quarter Seffions. Part II.

London, fell and weigh by other weights, then Chap. 7. with the weights sealed according to the Stan-

dard.

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If any pack up butter in Firkins for fale, and thing or value do not fer upon the Firkin when it is feafoned a dit sal . . visible mark of the weight of the core of the Firkin, or put up less then fifty fix pound of neat butter in every Firkin, or less then fourteen pound in each por, or put up old butter with new, or whay, or corrupt butter, with cream butter.

Or if any upon the Firkins of butter upon the . . . fale thereof, do not fer the two first Letters of Ma sof Much

his name, or his own particular mark.

If any pack up butter for fale in an unfized cask, and do not let the just weight of the cask after the fealoning visibly upon it, and his own mark, or two first letters of his name.

But no man may be questioned for any of these This At to things, beyond a year after the offence done. the as of

Another thing that furthereth Carfity is Tran- March 1650.

iportation.

If any transport beyond Sea by any Vessell any Fullers earth, clay, Tobacco-pipe clay, or other earth or clay which may be used in fulling here, or any be privy to it, being owner of the ground, and do not discover it to a Justice of Pline.

Another thing that furthereth fearcity is tran- owner of the

sportation.

If any have transported any corn, male, beer, is, or acco cheele, or wood, unto any place beyond the comlosithe Seas, except wheat he at one pound twelve thil- act and Marilings the quarter. Rye at one pound, Peale and ners lose their beans at fixteen fhillings ; barley or male at fix- priformere

21 Jac. 28. 3 Jac. 11. Transportation thip forfeit it, if teen year.

teen shillings, or if he have license to do it, and Chap. 7. exceed it, he loseth three times as much, and is to be in prison a year.

Weighes and and burn the weights, &cr. Fines in diferstion, above 6 th offenie, for the . fecond 13 fb. & d. for the third so s. and pillory 11 1.7.4.

If any buy or fell by unlawfull weights or meamuster forter fure, that are not like and equall with the Kings Standard. Or if one use double weights in buying and felling; the one to buy with, and the 8 d, for the first other to fell with; and if any unjust weights or measures be found, they must be burnt.

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The Tun of wine must be 252. gallons, the But of Malmiey 126. gallons, the Pipe 126. galat Ha. Like - lons, the Terrian or Poncheon 84. gallons, the Hogf-head 63. gallons, the Teerce 41. gallons, the half Hogs-head 31 gallons and half, and the Rounlet 15. gallons and half. So also of the measures of oyl, and none may fell under this in measure; nor till their vessels be gawged by the Kings Gawger.

GRaff.

If any Millard take excellive Toll, he is to have the twentieth, or twenty fourth grain, according to the strength of the water, and custome of the place, if it be reasonable.

The Millards Toll-difh must be according to the Standard.

For the better understanding of this matter, thele things are to be known. I. That in the principall or thire-Town of every County there ought to be a Standard of Brass for weights, and measures, according to the Standard of the Exchequer, there to remain with the chief offim # .... cers of the Town according to which every City Burrough, & market-town in the County, ought to make their common weights and measures to be marked by him that keepeth the Standard. 2. In every City, Burrough, and market-Town 1,000 NOOT there

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20 Jac. 25.

6 3.30 Basil

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will to Transion

there ought to be a common ballance, and a Chap. 7. common bushel, and common weights sealed, to sound a Giand according to the Standard in the Shire- ry, sponnd a Town 3. No man within any City or Market- Barrough 40 t. Town, ought to buy or fell with any weights or measures except they be sealed as aforesaid, nor out of Market Towns, except their weights and 27 Ed 3.100 measures be equall with the Standard, if they "H7.1. must not be sealed, for so some think they must ! H. . 5. 4. Ale and Beer must be sold by one and viewlet. the same measure.

If the common Baker, Victualler, Brewer, and Tipler, do not keep the Affize of Bread and Beer, according to the price of corn.

If any by himself or other sell wares, and buy them again within three moneths at the same. price, and know them to be the same; Or take more for any loan, giving day, then after the rate of ten pound for the hundred.

If any Broker have his hand in fuch a bar- utor.

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If any take above 8 l. per cent. or helps for- As an aider in a ward in this contract, if it be under 10 l. per cent. 13 Elizas. it is not punishable, but the interest is lost.

To this we may adde as an appendix Sell. 21. thereto, the offences concerning labourers, fervants, and Apprentices, without the help of whom, Trades cannot be upheld. And the offences concerning high-wayes, which being impassable, it doth much interrupt the free Trade of the Kingdome.

There are divers Laws concerning Labourers, Antiferen and Artificers, and therein also of their relations as Masters and Servants, they may be reduced so these heads. 1. Some are forbidden to intermeddle

Treble value. Fine, Impt. 37 H. 8, 9. 21 Jac. 17.

Chap. 7. meddle with some works, wherein they have not been trained up. 2. They may not make combinations amongst them for the limitation of their work. 2. They must do their work truly and fully. 4. They may not depart from their work before it be done. So that the Laws concerning these things have respect to three times.

1. Their comming together. 2. Their continuing together. 3. Their parting asunder. The particulars hereof that you are to be charged with, follow.

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Amprif. two dayes and a might in the flocks. g Eliz. 4. Zengtif. till the marisions If a Justice of Peace require such persons as are fit to work by day at Harvest, for the preserving thereof, and he resule.

If meet persons required by the Justices of the Peace, to serve as Apprentices, or otherwife to husbandry, and other arts, refuse to sub-

mit to them.

The LBL

If any unmarried woman of rwelve years old, and under forty, being required by two Justices, to serve by the year, week, or day, for such wages as they shall think fit, resule to obey.

The like.

Ferions com-

If any perion married, or unmarried under 30. years of age, having been brought up and required of them to ferve in the trades of cloathing, Wool-weaving, Tucking, Fulling, Clothworking, Shearing, Dying, or in the Trades of a Tailour, Shoo-maker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Furrier, Currier, Sadler, Spurrier, Turner, Bowyer, Fletcher, Arrow-head-maker, Burcher, Cook, or Miller, and they refuse to obey the order of the Justices of Peace herein, not having forty finillings a year in Lands, or forty pound in goods, or some Farm in Tillage, not being re-

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The charge for Quarter Sessions. Part I I: rained before by fome other person, refuse so to Chap. 7. 40.

If any man take upon him to exercise these Apprentice to Trades, not having been Apprentice to it feven pound

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If any man take an Apprentice contrary to Millenesses Law, Or if any of the Tradefmen before named of Mater and hire any Servant for less time then one year, or Impil. to. days abuse his Servant, or give more wages then the without Baile Statutes appoint, or take the Servant comming out of anothers service, without a Testimoniall. or refuse to stand the order of the Justice of Peace in any matter of difference between himand his Servant, or puraway a Servant without a quarters warning, though it be at the end of Tertil by a If any difference be between a Master and servant, or Apprentice Easter Selfions by the Juffices of Peace.

his Servant, or Apprentice.

And the Justice of Peace give order in it, and order the Servant or Apprentice refuse to submit to it.

If a Servant promise to serve, and doth not.

If the Servant refuse to ferve for wages ap- tillholes pointed by the Justices, or do not his work hoseftly, or promise to do so and do not, as if my Howman drive my Cattel, orride my horfes to marifus, des death. or refuse to do his work, or take greater wages then is appointed by the Starter, or if he Impile again. mke an affault or affrayupon his Mafter or him methalis. that buth the overfight of him. If Carders, they, and the Weavers, Sorrers, on Spinners, imbezzle any resi wooll or yarn.

If Labourers that work day work, do notefor of or witness,

September ad 5. pon

Chap. 7.

September from 5 to 7. the rest of the vear from day light to day light. Or if any Artificer or labourer depart before his work be finished.

Commitment ril he were with a Tuffice f Peace Imprif. till be ger it, which if et done in 21. daves to be u. mifed as 21 3 Va grant, but this ded of the Ser vante in Hef bandry, and the seft named be-Fore. 2 2d.6.25. Clothier, 3 times as much, did. and Com unitment til pay ment double recompense, and commitment till paid, as by di-Are's and fale. Sell. 12. Righwavet. Fine 10 ft.

If a Servant or Apprentice go away before the hefere, left end of his rearm, without allowance of a luflice of Peace, or depart at the end of his tearm, not giving to his Malter a quarters warning, of go away at the end of his time to any other parts without a Tellimoniall of his Master. Or if any Artificers or Labourers have conspired together, that they will not do any work but at such a rate, or for such a time, or in such a manner.

If the Clothier do not pay his Carder, Spinner, or other Labourer in good money, or if he deliver excessive weights to his workmen &c. or the Carder, Weaver, or Spinner do not his duty in his Trade, or refuse to pay the wages assessed, 1 Fac. 16.

If the High-wayes and Bridges be not repaired, and made passable, the places wherein they are defective are to be indicted.

If the Constables and Church-wardens do

not make Supravifors.

If the Supravifors appointed do not their duty. Or the Parishioners with their Men and Plows, do not their work appointed. Or the Lord of the Soyle do not enlarge the way from Market to Market; fothat no Bush, Dike, nor Tree, except great Trees, be within two hundred foot of each fide thereof. Or the owners of the ground adjoyning, do not fcour, cut and cleanse the Ditches, Trees, and Bushes ad joyning.

And the High-wayes by the Stamte of Wines chefter

10 trevery day firplow 12 d. for a min. a and a Ph. 5 Eliz 12. B Eliza 21 H.# s. Ten fail & for other prounds edistains to mert to the high ways, 22 d. for every

ASSESSED W

deline ?

The charge for Quarter Seffions. Part II.

chester ought to be forty foot in breadth. Chap. 7. The next thing you shall enquire of, is, of per- Sell. 23.

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Drunkerde.

If any man be a common drunkard, or a common haunter of Ale-houses, especially if he frend much there, and have little: Or keep a house of common Bawdry; or usually frequent fuch lewd places, or the company of lewd perfons, or commit Adultery, or Fornication, or have begotten a Bastard-child, or be the reputed Father of fuch a Child, or do before the birth thereof (being accused) convey himfelf away, or cause the Mother after the birth to convey her felf away, and leave the child. Or if one be a common Barretor, that is, one Barreta. that doth commonly stir, or maintain sures of Law, or quarrels in any Courts, or in the Countrey, or be an Evefdropper, that is, one that doth hearken under Windows, or the like, to hear news and so tell it abroad, to breed debate amongst neighbours; or if he be a night-walker, that is, one that fleepeth by day, and walketh by night; or one that doth commonly go in meffages for Theeves, or is common Hedge-breaker, and after he hath been punished for it, doth offend again. All these are persons of ill hehaviour.

You are to enquire of all fuch as having Licenses, do keep any Ale-houses, or Tiplinghouse, and be bound by Recognizance against and for the keeping of good order, whether they have done any thing to break their Recog-

nizances.

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Chap. 7. Brunkennefs.

Fire or Suppress

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after fix dayes,

for want of di-

Greffe commit.

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Fige follings within a week,

or for want, fix hours in Rocks

pence to be had

deys, or four

hours in the

flocks.

to be levied

94

The loathfome and odious fin of drunkennesse, being the root and foundation of many other enormous fins, as blood-shed, stabbing, murder, swearing, fornication, adultery, and fuch like, to the great dishonour of God and our Nation, overthrow of many good Arts and Trades, difabling of divers workmen, and generall impoverishing of many good subjects, abufively waiting the good creatures of God (as the Statute speaks, is a fore evill, and continueth and increaseth still.

You are to take care of the remedy.

If there be any Inne that is disorderly, and a common Nusance, or more then are needfull, to the hurt of ancient and wel-grounded Innes.

If there be, 1. Any that fell Ale without License. 2. Any that being licensed, sell lesse then one quart of the strongest, and two quarts of the ment. Ten &ilsmallest for one penny. 2. If any that ell by unlawfull measures. 4. If the Ale-men suffer any to fit tipling in his house: And by this it is to be enquired, whether the Ale-house-keeper within a wak y have forfeited his Recognizance. 5. If any have difrefs a'd fal"; within fix moneths last been drunk. 6. If any have within this time, fit tipling in the Ale-Geo behiviour. Three shill. four house, having no calling to be there.

For the Inn-keepers offence in some Cases, as before, in four he is disabled for three years for keeping any Ale-house. For selling without license, the se-# Jac 9. 4 Jic.s. cond offence is, the house of correction 2 at Jac.7.4 Gat.5. moneth: the third offence is the house of cor-Sycoonida day rection till he be discharged at Quarter Sessions. If any not having the grant of the Keepers of the Sell. 24. Liberties, sell Wine without license of Justices

at Quarter Seffions.

7 Ed. 4.5. Wine.

Mufters, Forty Shill. imprifonment ten days.

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The charge for Quarter Sessions. Part II.

The next Articles are touching such things Chap. 7.

which concern the strength of Country.

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If any commanded to muster before them that have authority, have absented themselves without cause, or have not brought their best price ment one Furniture and Arms to the Muster; or if any mo eth, put out authorized to muster, have taken a reward to Impril without spare any; or if any that hath the charge to do ball til fainfait, doth not pay his fouldiers wages, conduct or &M. coat-money. Or if any Captain for gain li-18d. 6. 1. cense his souldiers to depart, or demand, or rake more money then his due; or if any do willingly purloyn, or do away any horse or harneffe delivered to him, or wherewith he was let forth, and cannot shew how he did lose it.

The use of shooting in the long how, (said Archery to be in the Statute of 33 H. 8. 6. the furery, 3 4.6.9 fafegard, and continual defence of this Realm, 3 Car. 4. and an ineffimable dread and terror to the enemies of the fame is to be inforced. You are therefore to see that the Bowyer out of London, Westminster, and Southwark, that makes a Bow

of Ewe, must make four of other wood.

That every one have bows and arrows accor- 638 d. eve ding to the Statute of 33 H. 8.9. That is, every 17 mouth in deone from feven to feventeen, his bow and two Mafter and arrows; and from feventeen to fixty yeers old, for children and his bow and four arrows. Differ DEO JE DEO fervalte.

That they do use them, and erercise them- sine. selves and their children in shooting. That one under 24 yeers old, that doth not shoot at a standing prick, or being above, that doth not shoot any mark under two hundred and twenty yards with any prick-fhaft or flight.

That no stranger ase this exercise, or convey

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esting paid

Gran N. Sec

96 Part II. The charge for Quarter Seffions.

Chap. 7. away these weapons without the Kings license,

Buts 20 faill.

And to fee that every Tything have their Buts, and to prefent the defaults. And he better to hold them to this exercise, to restrain them from other exercises which are prohibited, You are therefore to enquire

Gun.
Ten pounds to
be efficated in
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Imprilonment
till savment.

If any one keep in his house, or carry any Hand-gun, not a yard in the stock and gun, or any Hag but, or Demi-hawk, not three quarters of a yard in the stock and gun; or (not having in his wives or his own right an hundred pounds a year carry or have in his journey any crossebow bent, or Hand-gun, or Hag but, or Demi-hawk charged with powder, &c. except in time of war, or by himself or servant shoots in such a gun at any thing but a bank, or for defence of himself or his house within, or within a quarter of a mile of a City, or a Market-town, unless it be one licensed to kill Hawkes meat; or within five miles of the Sea.

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Ken pound 33 M. S.6. 2 M. S. Rd-6. I 4. 25 Elin. 10. 2 Many. Or if any under the degree of a Lord of the Parliament, shoot in any Hand-gun, within any City or Town, at any fowl or other mark, upon any Church, house, or dove-cote, or any other place, with any hail shot, or more pellets then one at one time, or at any Pheasants, Partridges, &c. And yet publick officers for the execution of Justice, may carry and use guns.

May poles Ond. 6 April 1644.

Goncerning matters of pleasure.

If any May-peles be fet up or continued, the Parish is, or the officers are to forfeit \$ 5.2 week till it be taken down.

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If any lay-man that hath not 40 s a year in Chap. 7. Lands, keep hounds, and use hunting, 13 R. 2.13.

If any one have hawked or hunted with his Spaniels in any other mans grounds where any eared or codded corn hath been fran-Hawking, killing of ding or growing, before it hath been put Hares, in shocks, without the consent of the owner the like 40 fluid. of the ground : or hawk between the first commitmum. of July and last of Aug. or (not having ten 3 mon the or pounds in his own or wives right in fee, torewith.w. or thirty pounds a year for life above all a Phones tor a charges, or two hundred pounds in goods; Patriage 7 Ja. 12 or not being the fon of Knight, or greater till 40 mill. person, or son and heir of an Esquier have Improposed kept a Grey-hound, or fetting-dog; or have the action be with any Gun, Bow, or Ner, or otherwise, fast en fill. killed or taken Pheasant, Partridge, House-five, be bound dove, Pigeon, Hearn, Mallard, Duck, Wigeon, autodo fo Growth, Heath-cock, or any fuch fowl, or mentare kil! or take Hare with Hare-pipes or other-moreths, unless wife, or kill or trace any Hare in the snow, or any foothwish to kill any Parridge, or Pheasant, between the church-waters. Or July 1. and August 31. or take or spoil out of afterone or in the neft, the eggs of any Pheafant, Par-moneths camtridge, Swan, or wild-fowl used to be eaten, but the Rreignihe that hath forty pounds in Fee, or Freehold, not to do so or fourscore pounds in Lease, or is worth in File. goods four hundred pounds : or his fervants two moneths. may take Pheafants or Partridges in the day Good behavious time in his own grounds between Michaelmas ; years forety and Christmas. 1 Ja. 7.

If any destroy the head of any Pond; & take away the fish, or hunt in any warren, or park in-

23 Eli z. 10. 25 H. 8. 11. 14 H. 8. 10. 11 H.7. 17. 5 Eliz. 21.

98 Part II. The charge for Quarter Seffions.

Chap. 7. closed, and take away or spoil the game, or take

away Hawks or their Egges.

If any use any Guns, or Bows, or kill Deer or Conies, or keep Hays and purse-nets, Ferrets, or Cony-dogges, unlesse he have 40 l. inheritance per annum, or is worth 200 l. in goods, or have warren and ground inclosed, the profit whereof is worth 40 l. per annum. But he that hath an 100 l. a year, may keep them for his own use.

Unlawfol games 40 ft W. a day 11 H. 4.4. 17 Ed 3, 4. 33 H. 8. 9.

If any for his private gain, keep a house or place of unlawful games, as Bouls, Coits, Cloish, Kailes, half-bouls, Tennis, Dicing, Tables, Carding, Logate, Shove-groat, calting the stone, kails, hand-bal, foot-ball, clash, quick-boord, or any other unlawfull game now invented, or hereafter to be invented, Bear-baiting, Bulbaiting, stage-plaies, . Car. 1.

6 fhill. 8 1. a time.

so fhill, a time.

If any use or haunt such a house, and there playeth at any one of these games. Some think all games, except shooting, are unlawfull.

It any artificers, Craftsman of any Handicrast, Husbandmen, Labourers, Mariners, Fishermen, Watermen, Apprentices, Servant at Husbandry, Journey-men, or Servant of Artificer, Mariners, Fisher-men, or Water-men, or any serving-man, play in any place at any fuch game, our of Christmas only, and in their houles, or servants in their Mast. houses, & by their Masters license, or ferving-men, within the precincts of their Maiters house, and by their Masters license.

hill, 8 datime

If any person play at Bowls in an open place out of his Garden or Orchard.

Any Justice of Peace may enter into the places they suspect to keep such honses, or where

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men play at finch games; and finding it, may im- Chap. 7. prison the keeper of the place till he give furety no longer fo to do: and he may imprison the gamesters without bail, till they be bound in such sum as he shall think fit, not to play again.

The Arricles concerning the Poor follow. Self. 25.

The poor are to be provided for. And for this Poor. you are to enquire, if the Over-feers & Church. wardens do their duty in taking care for them, according to the Statute of 43 El. 2. And if Parents or children that are able, do relieve their imporent Parents or Children, according to the Iustices of Peace Order at the Quarter Sethions.

If any run away, and leave their charge upon To be parished as incorrigible the Parish, or threaten so to do.

Rome, to be If any refuse Apprentices being put upon them feet to Brideby the Overseer, Church-wardens, and Justices well the search of Peace. Paulh. 7 Ja. 4.

To this head we may reduce the Law against Cottages and Inmates, being made for the pre-

vention of the increase of the poor. If any build up any new house, or convert cottage ten any old house, not before a dwelling house, to forty faith, cona Cottage, and do not lay four Acres of Land tiasing. near adjoyning to it, to be perpetually used with it: or if any do continue such an unlawfull house fo built, for one moneth: but Cottages in Market Towns, or about Mines or Quarrs, or where Brick or Tile is made, not being above a mile from the works, and used to that end: or for a common Herds man, or Keeper, or Shepherd, or built by the Order of Sessions, are not forbidden. The building or conversion must be after this Starute. But if an ancient Cottage wholly be decayed and reedified, this is the offence.

Part II. The charge for Quarter Seffions.

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Chap. 7. Immates tin fail.

11 El. 7.

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If any take in any Immate more than one houshold into a Cottage : or if any do continue fuch an inmate for one moneth. But fuch as are fo placed by Order of Selfions, with leave of the Lord, and by the charge of the Parish, are not forbidden by the Statute. Herein know, No man is to be accounted an Inmare, or Under-fitter, but he that is in a Cottage. 2. Such cottages as were before the Statute, as well as those which are after; and fuch as have four Acres annexed, as well as those which have not, are within this Statute 2. Inmates within Cities and burroughs are within this Statute also, as well as others, Cook. 2 part. Inft. 739

Sed. 26.

The next thing concerneth the preservation and breed of things.

Calen.

If any (feeding for the most part of the year above one hundred and twenty sheer-sheep on his Grounds, that are meet for milch Kine, and ry Cow of Galt wherein no person hath any Common) have not for each fixty such sheep, reared one Calf duthe horfe, 32 H. ring the time of his keeping the fleep; or if he feeding on his feverall pastures above 20 Oxen, Ronrs, Steers, Skrubs, Heifers, or Kine, have not for every such ten beafts kept one milch Cow; and for every two Kine reard up and weaned yearly one Calf, except it chance to die. But this law is not to be extended to the Cattel a man doth spend in his own house. Or one keep stoned horses upon Commons of two years old, and not fourteen handfuls high; and any horse that is so, any man may feiz and have, after he hath called the Constable and three of the Neighbours to measure him. But if a horse be broken in, or it be a place where no Mares

twrty failling moneth for eve 3 & 3 P. M. 3. 25. Porfeit

The charge for Quarter Seffions. Part I I.

Chap. 7.

Mares are kept, this is not punishable. If any between the Nativity of the Vir- petroying the gin and Saint Martin, take any Salmons in form of file any River, or take young Salmons in any impr. a quarter River between September 8. and November of year, under 11. or at Mil-pools between the midft of bilt the firm April and Midfummer : or have taken or Buthere must have taken any fish out of season (that is) ere it can be pabeing keepers or shedders: or taken any Pic- for this time is kerel under ten, Salmon under fixteen, Lette punis Trout under eight, or Barbell under twelve it inches : or have taken fish in any water with coste thin, a Net, whereof every melh is not two in-firefrant fale ches and an half broad, within five miles of 17 8.20 the Sea, with a draw-net not an inch and half "11. ?. from knor to knor.

But the taking of fish by angling: or the taking of Smelts, Loches, Minhews, Binheads, 1 64.4 Gudgeons, or Eels, where they have been used to be raken, is not prohibited by any law.

If any flesh be dressed, or killed in a comlast past.

If men without license eat flesh on the days we hout bail. appointed for fish (whereof Wednesday is none) 114. 44. within one year last past.

If any in whose house it is eaten doth not disclose it to him that hath power to punish it.

There are certain offences and certain Laws Sea. 27. that do make them fo, which because we do not find they do at all belong to the Conusance of this Court, albeit some of them have been usualle given in Charge, there we do purposely passe over; of this fort are the Statutes of Mainte-

Lent, .

one moneths Impri onmene

2 El. 527. El.

nance

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Chap. 8. nance & Champerty, 32 H.8.9. of Sheriffs, 1 Ed.
4. 2. 4 Ed. 3.10. of the clerk of the market, 13 R.
3. 4 of Coopers, 23 H 8.4. 31 El. 8. of Woollen yarn, 7 Ed. 4. 3. of cloth, 43 El. 10. 27 H.8. 12, of fervants washing their dead masters goods, 33 H.
6.1. 4 Ja 2, of bows, 12 Ed. 4. 2. 1 R.3. 13. for felling of cattel, 3 & 4 Ed. 6. 19. of bringing in forrein wares, 5 El. 7. of prices of bows. 8 El. 10. of forging of Deeds, 5 El. 14. And some others.

The last thing we shall mind you of is, touching Presentments, that in those you make, you do set down a certainty of the persons presented with the time and place, and manner of the sact: otherwise let the matter be what it will for which you do present any man, your presentment may become void, and of little or no effect, for defect in the manner of making it, and setting it down, will make it void.

## CHAP. VIII.

Of their Proceeding in these Courts

Sed. 1: The manner and order of proceeding in the courte, for the convicting and perithing of offenders.

CRUEAR.

The manner and order of proceeding in the Generall Quarter Sessions, and in a speciall and particular Sessions, is for the most part one, and in most cases after one way, for their power by the commission is alike in all offences by the common law; but their power by Acts of Parliament is after a divers manner: for some Statutes run thus; That they shall enquire only; see 13 Eliz. 1, 2, 3. 1 Eliz 23. 5 Eliz. 1. 13 Eliz. 3. Touching offences about the service of God, comming to Church, or establishment of Religion, and others.

Some that they shall enquire and punish.

Some

## The charge for Quarter Sessions. Part I I:

Some that they shall enquire and determine. Chap. 8. 2 H. 6. 4. About wines, 8 H. 5. 3. About gil- Wines.

ding and the finesse of filver.

Some that they shall hear and determine; and others enquire, hear and determine, which Mil-hkire. are all one. So 2 & 3 Ph. & M. 3. About milch shing Officers Kine, 36 Eliz. 4. About Rogues, 2 & 3 Ph. & Brees of file M.7. 21 Eliz. 12. About horses fold and toll'd in of Victuriers Fairs. 5 Eliz. 21. About fishing and hunting in a Persury, Return of Park. 17 Eliz. 12. About under-sheriffs and Jores, Pheatheir Officers, 1 Eliz. 17. About the destroying tition, Souldiof the breed of fish- 2 & 3 Ed.6. 15. About the strate, victoria conspiracy of Victuallers, &c. 5 Eliz. 9. About 1 ... coroners, perjury, 1 Jac. 22. About Tanners, &c. 27 Eliz. Weigh s, Wise 7. About return of Jurors, 23 Eliz. 10. About Pheasants, 3 Eliz. 3. About transportation of Theep, 20 H. 6. 9. About Souldiers, 33 H.9.9. About Archery, 23 H. 6. o. About sheriffs, 12 R. 2. 8. About Victuallers, : H. 8.7. About Coroners. 11 H. 7. 8. About weights, 23 H. 8. 14. About wine, de Phil de Mar. 5. About transportation of corn and provision.

Some be that they shall hear and determine by inquifition, presentment, bill, or information before them, and examination of two lawfull witnesses, or by any of these wayes, according to their discretion, &c. so are 5 6 6 Ed. 6.14. 5 Eliz. 12. about ingroffers. To this effect is, Ingroffers 2 dy 2 Ed. 6.10. about Malt. 5 Eliz. 5. about fish. Mills, Fills

Some run thus, That they shall examine hear and determine every fuch default for every fuch forfeiture | upon presentment thereof had before them in the fetfions, &c. So 12 Ed. 4. 9. About an Escheator. And to punish the offendor by imprisonment, or otherwise, according 103

Gilding.

Rogues, Horfes. Periury, Tan-

Part II. The charge of Quarter Seffions. 704

to their discretion, &c. So is \$8 H. 8. 14. About Chap.8. wines.

> Some that they shall hear and determine.&c. And also by their discretion examine all perfons suspect to offend against this Act. 1 Fac. 22. about Tanners.

Some thus. That they shall hear and determine by their discretion, as well by examination as otherwise, the defaults, &c. So is 17 Ed.

4. 4. about making of tile.

Some that they shall by examination or Encuiry hear and determine, and fer fine according to their discretion, &c. So 11 H. 7. 4 About weights

Or thus, shall enquire and determine as well by presentment as examination, 1 H. 8. 7.

Or thus, that Juffices and Stewards of Leets shall enqueve, and the presentment in the Leet shall be certified to the next Quarter Sellions. And the Justices shall hear and determine every fuch presentment before themselves or Steward by examination or otherwise. 33 H. 8.

About shoned horses. 12.

Others thus, that they being convict by witneffes, or confession taken before the Justices of Peace in their generall Seilions, shall suffer any corporall punishment but death, as they shall appoint. And that they shall call by processe or otherwise to Seilions the persons suspect, or commit them to ward, or upon bail till the next Sellions. So is 22 H. 8. 1. About falle tokens.

Others thus, That the Justices of Peace they may attend, survey the offences against this Statute; and if they find any, shall make due

punish-

Weights.

Wines.

Tenners.

The charge for Quarter Seffions. Part. 11. 105 punishment thereof according to the contents of Chap. \$.

this Statute. Sois 17 R. 2. 9. About Salmons.

Others thus, upon pain to be grievously punished, according to the justices discretion, they shall judge them to the same bodily punishment as the offence requireth. And shall do exe-

cution thereof 12 R. 2. 8.

Others thus, that they upon the party grieved his complaint, shall make out processe to the Sheriff. &c. as in an Action of Trespasse, to appear before them to answer the matter. See II H. 7, 15. about Sheriffs. Shariffe.

Others thus, that they shall at their Sessions Indict and try the offenders by the usuall course of trials and indictments in like cates. See

20. Eliz. I I.

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Others thus, that the Sheriff shall certifie all indictments taken before him, in his turn, to the Justices of Peace. And they shall proceed as if they were taken before themselves, &c.

Or thus, that the luftices shall charge them that appear before them, that they duly enquire and put in execution the effect of the premises in due time, so that this act may be fully

executed, 24 H. 8 10.

Others thus, that they shall examine the trefpassers in this case, and do execution of them that be found faulty by Inquest, or by examination to be made by the Judges in manner afore-See 8 H.6. 5. about Woollen yarn. faid.

Others thus, that they in their Sessions may enquire by the oath of 12 men of those offences, and their Presentment shall be of the same force, as those in the Kings Bench are ; see 7 Ed.6. 5. Wien.

about wines.

Others

Weekles 14

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Others thus, that these offences be enquired, Chap. 8. and presented before the Justices of Peace, in their quarter sessions, and thereupon such due proceeding shall be against the offender, as in fuch cases, by the Laws of the Realm, is used, Drut kennels.

4 Fac. 5. about Drunkennesse.

Others thus, that the Justices in their quarter fessions, or any two or more out of the sessions, shall hear, punish and determine, see 1 Fac. 27

about Pheasants. Pheafents.

Others thus, that they shall enquire by Oath of twelve men, or by information; and make fuch like Process upon presentment, or information, as they use to do upon Presentment of trespass, 25 H. 8. 12. about keeping sheep.

Some thus, for Felonies, That the Juftices having power to determine Felonies, shall hear fuch offences, and execute the offender. Or thus, they shall be punished as other Felons, of fuffer death as other Felons by the Law. 39 Eliz. 17. 8 Eliz. 3. 1 6 2 Ph. 6 Ma. 4. 21 H. 8.1 7.31.

For the opening of which, these rules must be taken notice of.

1. One justice of Peace cannot take an inquifition of a Statute, unless the Statute doth especially enable him to it, as in case of a forcible entry, &c.

2. Where the Statute giveth power to examine only, it seemeth this includeth Over and Terminer, And though it say not what person it shall examine, yet it feems they may examine parties as well as wimesses. See Dal. J. P. 91. But Ouere.

2. Where a Statute doth enable the Juftices only

Sheep,

Sett. 2. Inmifition, fee above, chor. Selt. 4. Forcible entry.

Examine.

The charge of Quarter Seffions. Part II. 107

only to enquire, there in some cases they are to Chap. \$: take an enquiry, and certific it to some higher Court, as in case of some great offences, as in

I El. 2. 3. and others.

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4. Where the Statute doth enable them to Ger at To. hear and determine an offence, this doth comprehend all the necessary waves and means of doing of it; as information, hearing, presentment, granting process, giving Judgement and execution; and therefore that the addition of these things are superfluous, and this is the largest power of all. But in this case it is held, it must be in one of their femons, and in the ordinary way of triall, and that the Justices cannot do it out of the Sessions, Dal 7.P. f. 39.

5. Where the matter is to be tried by witnef- Witnesses. fes only, there it feems two witnesses are requifite; but if it be tried by Jury, there one wimesse will serve, & sometimes none, Plow.12.

6. The triall by examination of offenders, or Toll by examination witnesses alone without a Jury, is not permitted witnesses. to Justices of peace, but in case where the Stature doth either in general refer the triall to their discretion, or else they are especially enabled to take examinations, otherwise it must be by Jury.

7. Where a Statute speaks of proof, it shall proof. be taken for proof by witnesses only, yet some fay by a Jury, Dal. J. P. f. 191. Toung in his

Pracognita.

8. Where the Statute doth enable Justices to Oath a triall according to their diferetion, there it feemes they may take the examination of witnesses upon oath, Dal. J.P. 120. 16. Toung in his Pracognita to his Book. Dal. 7. P. 191. Lamb. 535, 536. 9. Where

108 Part II. The charge for Quarter Seffions.

Chap. 10. 9. Where the Statute doth not direct the way of Triall, there it must be by the ordinary way of Indictment, according to the common law, Dalt. F.P. 192. 72. Toung.

10. That which may be tryed another way out of the sessions, the Justices may try by Indictment in the sessions at their choice.

of witnesses, or other accusation or proof, though it say not upon oath, yet it seems it must be so, Dal. 7. P. 192.

12. Where a statute speaks of wirnesses, it cannot be with lesse then two, unlesse the triall be by Jury, where it may be, one will serve, Dal. 7. P. 192.

#### CHAP. IX.

But the whole proceeding in an ordinary way lieth in three things. 1. In Information. 2. In Hearing or Triall. 3. In giving Judgement, and doing execution

#### CHAP. X.

Of Information.

S to the matter of Information, these things are to be known.

1. That the Judges of these Courts take know-ledge of offences many wayes. As 1. Either by the presentment of some publick officer, sleward of a Leet, supravisor of High-wayes, Constable, or the like. 2 Or by the presentment of the Jury. 3. Or by their own view. 4. Or by the information of private persons, so is the common informer. As to the first of these, these things must be known. 1. A steward is to certific to the Justices

A perfectage.

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Witneffen

flices of peace the defects of stone horses that Chap. 10 go in commons upon 22 H. 8. 12. A Sheriff, the indictment found before him. A fearcher of rile. defects of tile-making upon 17 Ed. 4. A conflable to certifie the defects of execution upon the sta-

ture of Winchefter 12. chap.

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Constables Church wardens Head-boroughs Tithing-men, and Alecunners, must present upon their oaths all offenders by drunkenness or tipling within 4 Fac. 5. 2. These are not sent to the Grand Jury to be found by them as Indictments prepared are, but are a perfect information of themselves, to which the party accused muit answer.

For the second, these things must be known.

1. The information given by the Jury is two Information ways, by indictment or presentment; how these Presentment agree and differ, and many other things of this subject; see in Lib. 2. 2. That the Justices are to receive in this such indictments as are within their conusance, and none others. 3. They must ex Officio, see that they be well drawn for matter and form.

For the third, these things must be known: Sett. 5: Justice of 1. A Justice of peace of his own view may pre- Peace. fent the defaults of the high-waves.

For the fourth, these things, 1. That any man may inform or give in evidence against these of-

fenders without any danger at all.

And touching the common informer, these common in things must be known. I. None are to use this former. but such as are allowed upon record. 2. Thatnone is to be admitted to this office, that harh been once turned out of the same by the Court.

3. They may not inform against any man for H

Prefeatment of high wayes,

110 Part II. Of Hearing, and Triall.

Chap. 13 an offence done beyond the time limited in the Statute of 31 Eliz. 4. He may not inform in any of the Gourts of Westminster, but must bring his information in the County where the offence was done. And for this purpose, before his information be received and recorded, he must take his outhbefore the Justices of Peace, that the offence was not done in any other County, & that it was done within a year of the time wherein the Information is laid. And this outh must be entred of Record, 21 Jac. 4.

## CHAP. XI.

of Hearing, and Triall

OR the second thing, Hearing and Triall.

In this are included these things, 1. The calling in of the party. 2. His appearance and defence.

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Sett. 1.

For the First, there are Process to bring in the party in case he stand out, and come not in to answer the accusation. And these process are 1. In case of indictment, or otherwise; upon indiffments of Treason or Felony, the Process are 1. a Capias, 2. an Alias Capias, 3. an Exigi facias. Upon Indictments for other offences, not being Felony, they are, 1. A venire facias: And if thereupon the party be returned fufficient, then 2. a Distringus, and then Process infinite till he come in. But if a Nibil babet be returned at first against him, then 2. a Capias. 3. an Alias capias. 4. a pluvies napias. 5. an Exigi facias. Young. fol. 133. The process upon any Indictment or Presentment for an offence against a Stature, shall be such as the Statute doth direct, If it direct any, otherwise the ordinary processe of the common Law. There

There are other Processes, as that by which Chap. 12 the Sessions is called, Fieri facias, and Capias after judgement for the doing of execution, 5 & 6. Ed. 6. 14. And in some special cases Elegit. See

21 Eliz. 7.

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But touching all Process, these Rules must be heeded. I. No Process do usually iffue forth of this Court, but upon the Inquisition of twelve men, or return of a fworn Officer, some speciall cases excepted. 2. They are not granted upon a bare fuggestion, by word or writing. 2 Nor can any Process iffue forth but Sedente curia: Lamb ch. 6. 5 Eliz. 12. 5 Ed. 6. 14. Sometimes Recognizance. he comes into the Sessions by Recognizance, being thereby bound to appear there. For all Recognizances that concern the Selfions, are to be certified to the next Quarter Selfions after they certificate. are taken, when and where the party is to be called upon them. And if he do appear, his appearance is to be recorded. And the fame, or his Appearance default of appearance in case he do not appear, is to be certified, 3 H. 17: 1. 5 & 6 Ed. 6. 25. Lamb. I. P. 289.

For if a Recognizance be forfeit by default of appearance, or by breach of the condition, the Justices of Peace cannot award any Process upport in the ponit, but must certifie the Recognizance and the cause of forfeiture into some of the Courts of Record at Westminster, to the end that some process may iffue our from thence. Dalt. 1. P. 213.

The party bound shall do well if he have a Super sedens from above to discharge him, to appear with it at the Sessions, and pray an allowance of it; for it is doubted, whether his sending of it be a discharge of his appearance, Dals.

## 112 Part H. Of Judgement and Execution:

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Chap. 12 If one be bound to appear at the Quarter Sessions, he must appear there: If it be at the Sessions, he may appear at any Sessions. Dalt. I. P. 237.

Appearance.

Dischinge.

And if a Gertiorari come to remove the Recognizance into the Chancery, or Kings Bench before the day, this will discharge the appearance.

rance. Dalt. 7. P. 237.

Confession.

When the party doth come in, he must after his appearance, make his desence, either he must consels and submit to the Fine, or traverse the charge; and then he is to be bound to prosecute it, unless it be tried presently, which must be done by a petit Jury, and this called an Arraignment, or Triall. And if they passe for the King, and find him guilty of the offence, or he consessed it, or stand out an outlawry that he be convicted, then are the Justices to give judgement, and see execution done according to Law.

Amaignment.

Conviction

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### CHAP. XII.

## Of Judgement and Execution.

For the third thing, giving judgement and doing execution.

In the giving of judgement and doing execu-

tion, these things are to be known.

1. They must adjudge men according to the Law, that is, where the Law appointer a corporall punishment, they may not inflict a pecuniary punishment. Et sice converso. And regularly where the Law appointer one kind of corporall punishment, or one degree of pecuniary punishment, they may not change it, and inflict another.

Sea. 2. 3. They have power to inflict corporall punishment.

Of Fines and Amercements. Part II.

ment, as death, cutting off the parts of the body, Chap. 13 burning or marking, imprisoning, whipping, or stocking, or cucking stool-

3. Pecuniary, as lois of offices, lands or goods,

fines, iffues, amercements.

4. In fame, as to brand a man that is perjured, that his Testimoniall shall be of no credit aswards.

# CHAP. XIII. Of Fines and Amercements.

Touching Fines and Americanents these Fines and Americanests.

1. That no Fine or Amercement can be fet but

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2. All Fines and Amercements that are in their discretion, must be reasonable, having re-

gard to the offence, 34 Ed. 3.1.

2. Where a Statute doth appoint a certain penalty for an offence, there regularly no other can be imposed, nor can the Justices of Peace mitigate it after the party is convicted by confession, or otherwise. But if the party indicted before his conviction come into the Court, and protest his innocency, yet, quia noluit placitare eum An. Rege, he put himself to the grace of the court, the court may impose a moderate Fine, & by order forbear the profecution. And the common practile (it feems) is, that if an information or indictment be against a man for drunkenness, tipling, selling ale without license, swearing, driving cattell on the Sabbath day, or any other offence against a Law that gives an express penalty, if the offender come in and confess it, & put himself upon the mercy of the court, they 114 Part II. Of an Indictment & Presentment.

Chap. 14 do fine at their discretion: But if he be convict by verdict, or oath of Witnesses, the Justices of peace cannot discharge him of any part of the forfeiture. And therefore if a man be convict so for selling an hundred measures of beer under measure, he must pay all the penalty. Resolved

of the Judges. temp. Car. R. 10.

Imprifoned.

4. The party is to be imprisoned till he pay his fine, if it be a fine at common Law: For to every such fine, imprisonment is incident; yet in this case the Justices may take a recognizance for payment of it, and deliver the party out of prison. Or they may cause the Clerk of the Peace to make Estreats of all the fines and Amercements, and transact them into the Excheques by Indenture, keeping one part to themselves, 5 El. 4. Sed quere whether now they may not require the Sheriff to levy them, 14 R. 2. 11 By which they are to have duplicates indented of the Estreats, and the Sheriff is to have one part to levy the Fines, &c. by them.

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Clerk of the Per c. Eftigation

#### CHAP. XIV.

An Indictment and Presentment.

An Indictment is a Bill or Declaration formally made, containing an acculation of a man for some offence committed, by a Jury to be found of purpose to put the offender to answer to it. Or it is the verdict of the Jurors, grounded upon the acculation of a third person, the which the Jurors are charged to enquire of. Or it is an acculation sound by an inquest of men upon their Oaths. And this sometimes is called a Presentment, which differs little from that, being defined to be an enquiry stilling some

Pre'en ment

fome offence against the Common-wealth. Or Chap. 11 a meer information or denuntration of the lurors themselves, or of some other officers, without the acculation or information of another to the luftices that have power to punish the offence done contrary to the Law, Cook Super Lit. 126, 127. Stamford Lamb. 485.

An Information is the acculation of the par- Information ty offending by a stranger before the justices of the Peace, for the Lord Protector, or for his own benefit, to the intent to put the party to

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Appeal is the plaint of one man against andther, of purpole to attaint him of forme offences when.

The Indictment or Presentment, is the chief ground-work whereupon the whole triall is afterwards to be built. A Dunas .....

In every crime feven things are to be confidered, viz. the cause, person, place, time, quali-

ty, quantity, and event. at 1861 to . Visio

Every Indictment, Prefentment, &c. (especially if it concern a mans life ) being in the na- Gord Rabe riffe of a Declaration for the Lord Protector against the offender, to which the party must Infwer and upon which the Court must judge. must contain verity, certainty, and perspicuity. certain ought the Declaration to be, certain the foundation, certain the matter which is brought into judgement. For an Indicament cannot be made good by implication, Stamf. 961

The Indictment is to prepare for a triall. For the Trall it felf is the iffue upon the Indict. CAN HIMB T. C. THICK

mente preisfina

Many things are requifite to make a good indistinctit, presentment, or information.

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Chap. 14 1. As that the parry indicting, &c. be comperent: 2. That the indictment be brought in due time. 3. That the matter be indictable. 4. That the indictment be for manner and matter substantiall. And if it be defective in any of these particulars, it may be quashed. Cook. 5. 120, 121.

s. For the pre-fers by whom, and who may be Endictors or Inform:11.

Any honest man may follow an Indiament, and any one that is a competent witness, may be a competent indictor.

But it feems fuch persons as are infamous, may not be indictors. And therefore 1 H. 4.41. one was discharged of an indictment because one of his indictors was out-lawed for Felony. Toung 1.6. Stamf. 88. mid mis on ologung lo.

Such as have for mifdemeanour in their common informing, been put out by order of the Courts of Justice, cannot be an informer. Stat. 31 Elizoch. 5. our agairla

8. For the perwhom it is brought, and who may be In-

Any person may be indicted that lives within the County, or that have lived there, or that have committed an offence therein. And women covert, infants, and all fuch like-other perfons, who may commit an offence against a law, (if they benottexcepted in the Law) may be indicted for that offence as well as others. Gook. 11. 61. Dier. 104.13.

A Justice of Peace as hath been faid may be indicted at the Sellions of his own County, before his fellow- Inflices. Lamb. 631. Quere this.

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For the time The Indictment may be brought at any time for brough and in an offence done against the common Law; but what time the for any offence against the Statute, it must be indiament, ac. in must be brought within the time the Statute prescribeth.

For some offences it must be brought at the next or second generall sessions after the offence

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being done; as those against the Ordinance of Chap. 14

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For some offences it must be brought within a year after the offence done; as the Statute 2 & 3 Ph. & Mich. 3. about keeping Kine, &c. 31 Eliz.ch. 4. about Armour. 2 & 3 Ed. 6. ch. 10. about Malt-making. 5 Eliz. 5. about eating sless. 32 H.3. 6. about shooting. 7 Ed. 6. 5. about Wines. 32 H.8. 9. about maintenance. 3 H. 7. 1. about Inquests for concealment of Felonies. And some others.

For other offences it must be brought within two years after the offence done, as forestalling, regrating, and ingrossing, against the Statute of

5 & 6 Ed. 6. ch. 14. and some others.

For other offences within fix moneths by Statute, 5 Eliz. ch. 15. about Prophefie, Stat. 4. Jac. ch. 5. about Drunkards, 5 Eliz. 5. about fish by the Informer, 33 H. 8. 6. about shooting by the

Informer, and some others.

All actions, indictments, & informations, where the forfeiture is given to the Lord Protector alone, shall be brought within two years after the offence done. And all actions, &c. but the Statute of tillage, where the forfeiture is given to him, & another, must be brought within one year after the offence done, Stat. 31. El. ch. 5. Or in default of that for him within two years; for shooting, for the Lord Protector within a year; and such as are brought after this time are void. But where the Statute by which the offence is made doth limit a shorter time, there it must be brought within that time. 33 H.8.6.

And therefore one being indicted for not baptizing his child, and it appeared the offence was

Chap. 14 three years before, the Court stayed the Indictment. Mich. 7. Jac. Stoners Cafe.

An Indictment, Presentment, &c. generally . For the place of the offence, a must be said to be in a place certain for the veplace it may, cr nue. And it must be there brought and preferred must be fild to where the offence is done. Stat. 1 R. 3. 2.

If it be upon a penall law, it must be laid to be done there where in truth it was done, else

the Defendant shall be found not guilty.

But informations against Popish Reculants for not coming to Church. For maintenance, champerty, and some others may be alledged to be in any County. See the Statute 21. 7ac. c. 4.

If one be stricken in one County, and die of that stroke in another County, he may be indicted in the County where the death is, St. 2 6 3 Ed. 6. c. 24. Lamb. 493. And it feems the two Counties, unless London be one of them, may joyn in this cafe. Brook in Diet. 45. 31.26.

If a Felony be done in one County, and a man become acceffary thereto in another County, the Indictment against the accessary may be good in the county where he became accessary.

Lamb 7. P. 493. Toung 120.

If one be robbed by the high-way in Middlefex, and apprehend the Theef (having the goods about frim) in Effex, he may be indicted for this Felony in Effex, but not for the Robbery there, for it is no Robbery but in that County, but is Felony where ever he figth the 200ds. Lamb. 499. Young 120.

One was indicted Banco Regis in Middlefex, for that he at B. in the County of Middle fex did procure 1. S. to kill 1. B. whereby he killed him at S. in the County of Berks, and it

Securis

feemes it is good, 9 Ed. 4. 48.

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In informations, the very County wherein the thing was done must be expressed, except it be for champerty, buying of Titles, Extortion, or for matter of corrupt Usury, or for ingroffing or regrating, where the penalty appears to be twenty pounds or above, and in some other cases which may be laid in any County, as please the informer. Stat. 31 Eliz. chap. 5. Poulton de pace 165, 166. And all futes grounded on 33 H. 8. cap. 9. touching unlawfull games, and bowes and arrows, 5 Eliz. ch. 5. For using any Trade which one hath not been brought up in, shall be heard and determined at the Affizes or Quarter Selfions of the County wherein it was done, or the Leet within which they happen, not elsewhere.

A man may be indicted in this Court for any & Forther Felony, for any Trespasse, for any wrong done which a man is by fraud or force, for any offence against a Sta-indiant, and rute Law, the conusance whereof is referred an tuditment to the Justices of Peace. And therefore upon lethany offence against any Article of the charge; as for extorrion, escapes, rescues of persons and goods, unlawfull diftreffes, with-holding of Treasure trove from the Lord Protector, for conveying away men from the Justice of the Law, for hiding and keeping away an Apprentice from his Matter, for Popish Recusants, 3 Jac. c. 4. For concealment of Pelonies in

Inquests. Stat. 3 H. 7. 1.

But an Indictment in this Court is not good for the taking of such things which are feranature, as Deer, Hare, Partridge, Pheasants, un-

Chap. 14 lesse they be made tame, or taken our of a Park, for they are not valuable, 8 Ed. 4. 5. Nor for Treason. Nor for breaking a Recognizance of the good behaviour, 8. Car. B. R. Cook. 4. part. Inft. 18. Nor for inclosing Commons. Brook Indichment in toto. For the remedy upon the forfeiture of a Recognizance is by scire facias, and not by Indictment. Gook 4. part of his Inft. f. 18 1. Tet fee Stat. 5 dg 6 Ed. 6. 25.

L For the maner and form, when it tall be faid to be formall, or

All indictments must be entred and inrolled in English: & where Indictments did use to say. the seffions of the peace of the King, it must be the fessions of the publick peace : and whereas it was faid, the Jury of the Lord the King. say and present, now it must be the fury for the Lord Protector fay and present. And instead of these words, in the peace of God, and the faid Lord the King then being, it must be, in the peace of God, and in the publick peace then being : and instead of these words, against the peace of the said Lord the King, his Crown, and Dignity, it must be these words, against the publick Peace: and where mention is made of high-wayes in Indistments, they shall be called, common highwayes, and not the Kings high-wayes: and these words, of the faid Lord the King, or Kingdome, or his Kingdome, or this Kingdome, or Kingdome in any case: and these words, little regarding bis due Alleagiance towards the Lord the King: and these words, against his dae Alleagiance, and in the defamation and derogation of the Kingly Majesty of our said Lord the King, now shall be wholly left out in all Indictments, Pre-Centseatments and Inquisitions. And in Indicaments Chap. 14 for abufing money, where it is imagining and intending the said Lord the King, and his people, craftily, falfly, feloniously, and traiterously to deceive, doc. It shall be imagining and intending the people of England, craftily, fally, and traiteroully to deceive, dec. And where in these Indictments it hath been, to divers of the said Lord the Kings liege people and subjects, fally, feloniously, and traiterously hath spread abroad, doc. it shall be to divers honest persons of England, hath fasty, feloniously, and traiterously spread abroad, Gc. and for uttering false Coyn, where it was of lawfull money and Coyn of the said Lord the King of this Kingdome of England, now it shal be of lawful de curr. money de Coyn of England. And whereas it was, to divers liege people of the said Lord the Kings subjects, for true, lawfull, and current money, and Coyn of this Kingdome of England, fally, voluntarily, and knowingly hath spread and uttered in payment, to the great deceipt of our Lord the King, and his people, and against their due Alleagiance, It shall be, to divers honest persons of England, for true, lawfull, and current money, and Coyn of England, falfly, voluntarily, and knowingly hath spread abroad, and uttered in payment, to the great deceipt of the people of England, or with the alterations supplying the sense thereof, and suitable to the alteration made, A&. 17. of Feb. 1648. 9. of April 1651. 12. of Nov. 1650.

In an Indicament of Treason, the word traiterously must not be omitted. So in an Indicament of Felony, petit Larceny, or Maihm, the word Chap. 14 feloniously, in an Indictment of Murder murdred, which is sufficient without saving of malice forethought, in an Indictment of Burglary, burghlarily, or buglarily, or burgularily, in an Indictment of piracy, piratically, in an Indictment of rape, ravished, in an Indictment of rior, riotoufly, Poulton of the peace, 25. 27 H. 8.17. 4. 41. Stamf. 149. 9 E. 4. 26. Dy. 99. 216. 304. For scarce any other words will Supply these, and therefore to say, that A. broke the mansion house of B. in the night, is not good for Burglary; and yet to fay hath broken, &c. with the intent to commit Felony or Murder, is held to be good; fo if it be, that A. hath flain B. of malice foret-hought, and freely, or feloniously, this is not good to charge for murder, though happily it may be good for manflaughter. So if that A. Feloniously took B. and her carnally knew, is not good for rape, so he stole, or ravished, and stole without Felonioufly is not good: So to fay A. took B. into the cold, whereof he died, without seloniously is not good.

For a riot, instead of riotously, routously and unlawfully was judged void, in 7 Ja. B. R.

To lay in an Indictment, Felonioully he led away, without he took, or he took, without led away, is not good, but it must be, took and led, or carried away. So to say, that A. burglarily broke the Church, &c. in the night, ad depradandum, to make a prey of the goods of the Parishioners in the same being, was adjudged yold.

In forcible carry on the Stature, \$ H. 6. 9. It must be with strong hand, or with a multitude

of people, or it is not good.

The

The Indicament was, not with firong hand Chap. 14 diffeifed, but with force armed, and it was agreed to be naught, M. 7 Fac. R. B. in Shellitons case.

In the Indicament upon the \$ H. 6. chap. 9. it was faid. That he against whom the Bill is preferred, disseised him that preferred the bill with force and arms, viz. with swords, &c. omitting with strong hand expelled, and it was ad-

judged good.

If one be indicted as accessary to a Burglary, the Indictment must say maliciously, Dier 99, 304. Lamb. J. P. 50. Poulton de pase 25. 27 H. 3. 27. 9 Ed. 4.26. 29. Dier 69.216. Plow. 475. Cook. 4. 41. Stam. 94. Gook. 4. 29. 8 Ed. 4. 10. Cook upon Littl. 127. Dier. 189. But those Indictments may be good for Trespass, or some other offence that have these defects in them.

The omission of these words, with force and vi & armis. arms, viz. with staves, knives, weapons, and arrows, and the like words in Indictments of forcible entry, or the like offence, do not make them vicious. But it is good to insert them for aggravation: yet if they be omitted in an Indictment of Felony, it feems it is otherwise, for in M. 17. Jac. B. R. An Indictment for petit Larceny was quashed for lack of these words : yet see the Statute of 37 H. 8.c. ..

But the inferring of these words in the Indictment, with force & arms, where they are needs left, as in an Indictment that for an offence that lieth in now fesene or neglect will not hurt it. Cook. 9. 50. In forcible entry it is needless, for

it is implied. Lamb.I. P. 582. Toure 121.

Some think these words against the peace are component

Chap. 14 necessary to be used in all Indictments of Felony, forcible entry, rior, trespass and the like; & in all offences against any Statute, though it be for not doing: and where is any force; and before the Statute with force and arms must have been used: for in 17 Jac. B. R. one Palfray was indicted for a common Barretor, and the Indictment was quashed, because it did not say, against the publique peace, nor against the form of the statute, Cook. 9. 50. Lamb. 502. Toung 121. in

But the inferting of these words where they are needless will not hurt the Indicament. Nor a

falle conclusion of an Indicament.

Pa pace Domini Rogis.

The omiffion of these words, that the party slain was in the peace of God, and the publique peace will not hurt the Indictment. Cook. 4. 41.

If an Indictment have these words in the beginning, seloniously and of malice forethought; to the affray, and after omit it to the stroke, yet

it is good. Cook. 4.41.

Stat. 4 Fac. 1.

If the Indictment be that A. beat B. and one horse of the price of 20 s. seloniously took, omitting of him B. this is good. Fitz. Indistruent. 6.

If in an Indiament for robbery affault he made be omitted, this makes it void for Felony, but not for Robbery. Dier. 224. Hill. 7. Jac. B. R.

This Indictment was thus. The Jurors prefent, if I. B. of &c. instead of that I. B. of &c. and it was quashed.

An Indictment Was, Quod quidam A intra Libertatem Domini Regis villa sua de Cossam, or. Subter ministam, or. dedit vulnus, or. Avus cum pelleto plumbeo vulnus totaliter, or. penetrins in o per corpus, or. Exceptions, i. That
the Village of Cossam was not said to be within
the Liberty of Cossam. 2. For that it was subter
ministam with a single m. 3. For that it was
vulnus. 4. For that the depth and breadth of the
wound was not described, but were over ruled,
yet for want of the word, he struck, made void after Outlawry, and the party discharged. Longs
Case. Cook 5.20.

Where the Indictment is of a living thing, and the number is to be set down, or of a dead thing in the singular number, or that goeth by weight or measure, or of coyn that is not currant, it must be of the price, not to the value. But if it be of dead things in the plural number, not going by weight or measure, or of currant money, then it must be to the value, not of the price. If it be of dead things, it must be goods and chattels, expressing the names thereof in certain. If living things, he must say, an horse, Ox, sheep, the number must be expressed.

faid WS. feloniously he took, and WS not spoken of before, it is naught.

If an Indictment be for taking the goods of a Church, it must say, the goods of the Parishioners in the custody of the Wardens, &c. and the goods of the Church is not good. Brook India. 33.

If an Indictment be, that the goods of the fore-

If it be the goods of a Parlon, it must be the goods of the Rector, not of the Church. 37 H.6.33

Young 120.

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The goods of a Corporation, they must be said to be goods of them, by the name of their Corporation. If the goods were taken from the Testator, the indictment must be, the goods of the Testator; but if

Part 2. ofter his death, it must be the goods of the Te-Chap. 14 Rator, in the custody of his Executors being. Lamb. Fust. P. 496. Toung 120.

For the taking away of a Coat-Amour over a Tomb, it must be goods of the Executor of him whose Tomb it is. But for a Tomb-stone, goods of the Church. If they be taken from a trespasser, they must be said his goods that had the last possession. But if I deliver them to one to keep for me, and they be taken from him, it must be goods of me in his keeping. Young 121.

An Indictment of the goods of a Chappel in the custody, &c. goods of an house or Church in

time of vacancy, it is good. 7.Ed.4.14.

Every Indictment or Presentment, must have verity in it, and it is to be framed as neer the truth as may be; for it is to be found by the Jury upon their Oaths, and the Indictment being vere distum, and a matter of Record, ought to set forth all the truth that by Law is requisite. For of things not appearing, and not being, is the same reason. And every part of it must be found by the Jurors, and no part can be supplyed by averment. And if it be not so, it is insufficient. Stat. 31. Eliz. c. 5.

Certainty. Incertainty.

Verity.

Also it must have a full and precise certainty, and perspicuity in the Record it self, so that it need no supply by argument or intendment, for it is to be found by the Oath of Laymen. And this certainty lieth in fix things, 1. In the persons that did the offence, and against whom the offence was done. And for this we are to know, that though it be not needful in Informations, yet in Indictments and Presentments, the names of Baptism, and straame of the party indicted.

indicted and presented, with an addition of his Part 2. mystery or degree, and his dwelling place is to be Chap. 14 inferted, as. I S. of W. in the County of G. Mercer. I H. 5.1.5 Poulton de pace, 196. viz. The Town, Hamblet, and County of which he is, or Additions hath been of late conversant, otherwise it is insuffi-cient and may be avoided. And a single is a cient, and may be avoided. And a mistake in the good additiname of Baptilm, is more dangerous then in the on, or not. fir name; for a man may plead mif-naming of his name of baptism, but of his sirname not.

The addition of the Degree or Mystery must be alwayes such as the party hath at the very time. But the addition of the place may be of fuch where he was at any time before, fo that the word, lately, be added. Toung 119. Lamb. F. P.

490,491.

The addition of names of Dignity by Creation, as Duke, Marquis, Earl, Vicount, Archbishop, Knight, Serjeant at Law. Or without Creation, as Baron, Esquire, Gentlemen. Alderman, Widow, Spinfter, Single Woman, Doctor, Clerk, Parish-Clerk Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Millard, Haberdasher, Goldsmith , Burcher Carpenter, Chapman, Smith, Laborer, Lighterman, Waterman, Spinner, and such like are good, for the Mystery or Occupation. But Farmer, Servant, Butler, Chamberlain, Citizen, Extortioner, Maintainer, Vagabond, Heretick, Ufurer, Thief, Schifmatick, Dicer, Carder, Chancellor, Treasurer, Sheriff, Coroner, Escheator, Bailiff, Dean, Archdeacon, Prebend or Parson, which are names of Dignity by reason of Office only, are not good addition. Cromp F. P. 96. 5. Ed. 4.40, Dier 207.

Part 2. Chap.14

The Inhabitants of a Parish may be indicted, either by their names in particular, or in general, without naming any one of them in particular; and the indictment is good either way, 8 fac. Cook and Walberson.

If a man have two names, or be usually called by two names, he may be indicted by either of

them.

If one be indicted by the name of I S. servant to I W in the County of Middlesex Butcher, this is void, for servant is no addition, and Butcher shall be referred to the last name. 9 Ed. 4.48.

So if it be I S lately of E. in the County of S.

wife of W S lately Spinster, it is vitious.

Alias dia.

If an indictment be against three, and in the end of their names is Yeoman, this is defective for the two first names. Dier 285. Plow 537.

Alias dia.

If an indictment be against 18 Citizen and Panner of London, otherwise called 18 of London, Draper: this is naught, for he may be Panner of London, and dwel at York.

But Mercer of London is a good addition 36 H 6.30. The [otherwife called] after, wil not help the milnaming before, for the addition must be in the premises, not in the [otherwise called.] Dier 50.

If it be IS. of C. in the County of G. lately Yeoman, this is not good, for it must be the mystery he is now of; yet IS lately of C. is good for the place, but it is best to write him of the place he is.

This addition must also comprehend the Town or Hamler, or place known out of any Town of Hamler, and the County whereof the party indicted is or was; for by the omission of the Town

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or County, the indictment is naught. And if there Part 2, be divers Hamlets in one, he may be named of Chap. 14 the Town or Hamlet, or of such a Hamlet in the Parish. But if he be named of a place known, and the place be within the Town, he must be named of the Town: and if both Towne and Parish bear one name, he may be named of either.

If there be two Townes or Villages in one Parish, then he ought to be named of the Parish; if there be but one Village in the Parish, he is to be named of the Village in the Parish of S, or of the Parish, omitting the Village. But if there be divers Villages or Townes in one Parish, he must be named of which Village in the Parish of S. only. If a man have a family in two Counties or places, and live lometimes at the one, and sometimes at the other, he may be named of either. And if a Serjeant at Law doth use to keep Term; he may be said to be of London, or of the place where he dwelled.

If an indictment be against the Parson of Dale, without naming the place of his abode; or against the Rector of the Church of Dale in the County of Glou, this is not good, 22 H.6.41.

An indictment was against divers for a Riot, and it was not expressed in what County they were; for that it was quashed. Pafch. 18 fac.

An indictment was for killing a mans wife thus, That the faid A was in the peace, until the foresaid I & husband of the foresaid AS of H foresaid, in the County foresaid Yeoman; in this case it was held good, for it was upon view of the body, otherwise not: For r. it should have been lately husband. 2. Yeomin shall be referred to the

Part 2. Chap. 14

the husband, for it cannot be referred to the wife. But if it were Spinster, contra, for that addition is appliable to a man or woman. Dier 46.47.

But these additions are not necessary in Informations against the breakers of penal Lawes. Nor upon a Sheriffs returne of a Rescue, 13.H.

7. 21.

Nor is this addition so necessary to the name of the person to whom the offence is done regularly there must be some certainty in the name of the person against whom the offence is done. Toung 1 20. For a murder may be charged to be upon I. Parish Priest of W. without any firname, or of a certain unknown one. of a certain man unknown feloniously took, and it is good; but if the Indictment say, that he Role a coat of a man unknown, whom he found dead, this is naught. Yet if the party to whom the offence was done cannot be found, it is good without naming him, as before. So for an affault, affault he made upon a certain-unknown. Toung 118. And yet if an Indictment run thus, That he stole twenty sheep, price &c. and doth not say of whom, or that they were the goods of any body, this is not good. So if the Indictment be, that A entred into a house with ten other persons, and neither name them, nor fay they were unknown, this is not a good Indictment.

If an Indictment be against a man for an accellary, the name of the principal must be set down. So also the accessary, in case the principal be indicted for that offence, else it is not good; and the efore if the Indictment be that A commanded a certain unknowne man to kill B, which he did, this is void: but in case of Treason, Tres-

paffe,

pals or maim, where all are principals, it may be Part 2. good enough, qued procuravis perfonas ignotas, to Chap. 14 do the fact.

An Indictment for distraining the Kings Sub-

jects, and doth not fay whom, is void.

An Indictment for felling and making of tanned Leather, and did fet downe the persons to whom it was fold, was misliked, it is traversable,

1 R.3.1.

ly take it.

l.

As in personal actions, so in Indictments, Pre- 7. For the fentments, &c. the day and year when the offence time, and how it shall was done, and sometimes the hour, must be cer- be laid, and tainly fet down, as, The 13 of March the year of when the the Lord,&c. now present, or the Indictment will fact shill be not be good; for if a man be hurt ab vera year be- faid to bee fore, it is no telony; and for trespass against penal Statutes, the offence must be done within a certain rime before. Statute >3 Eliz. 5. 39. Etiz. 1. 2 Fac.4.

And therefore if a felony or trespals be laid by an Indictment to be done, and no time fet downe when it should be done, or if it be 10 Martii, withour faying in what year, it is vitious. Broo. Indictment 41. But if it be said to be done the day next after the day of Pentecost, or the tenth of March last past, or the tenth day from Easter, the 4. Car. or the utas of the Holy Trinity; these are good Indictments, that is certain which may be made. 8 H.4.8. 2 H.7.7. 3 Ed.4.8. and so if it be Anno Domini 1645. without naming the yeare of the King, it is good, and shall be taken as we ordinari-

If it be faid to be done on the Feaft of S. Petir, it Incertainty is not good, for there are many feafts of that name, and they have additions, 3 H.7.5. Firz. Indict-

ments

ments 22. But it feems in the Feaft of S. Mich. is Part 2. good. Chap.14

If the indictment lay the thing to be done on a day yet to come, it is naught; fo of a day that never was as the 29 of February, except in a Biffextile, which is every fourth year, for then it hath 29 dayes.

When leveral Acts which are done at several times do make up the offence, as the stroak and the death, both times must be certainly expressed,

Broo. Indict. 41. Dier 69.

When several actions which are done at several times do make up the offence, as the stroak and the death, both times must be certainly expressed.

Brook Indict 41. Dier 69.

If an Indicament be against I.S. for a stroke the fourth of August, and death thereby the nineteenth of December; and faith further, That T &W the time of the felony and murder the fourth of August &c. feloniously were present with swords &c. then and there aiding, affitting, &c. this is void, for the murder was not till the latt day; and that auxiliantes is necessary in this case, for it cannot be supplied by argument or intendment. Cook 9 62.5.1 20.42.

If an indictment be that A struck B the 19 day of May, whereof he languisheth to May 20. which 19 May he died of the same stroke, this is naught, for it should be, he died the 20 day. vier 50.

If the offence be done in the night before midnight, it must be laid to be the day before; if after, it must be laid to be done the following day. Lam. J.

P. 402. Toung 219.

An indictment was that A.irch a day did a felony it H. for which W. did an elt him at H. fore-

1311,

faid, and in safe custody then and there had, un-part 2. till the def- upon the forefaid A. then and there Chap.14 assaults made, and the same then and there rescued &c. it is doubted if the first [then] made the time of the arrest certaine enough. 2. And whether the last ad tune, &c. may be referred to any part of the said day. But it should have been dicto die, &c.

If a presentment be in the negative, or an affirmative rising of a negative, as that A hath not skowred such a Sewer, or that by the not scowring thereof such meadows be drowned, in this case there needeth no year or day, for it affirmeth a

present evil, Lamb. 492. Toung. 119.

of March, and 20. of March, this is void for incertainty, for one felony cennot be twice com-Incertainty.

mitted. 2. H.77.

If one lay a telony to be done the tenth of May, and an escape of him the first of May, year 20. a-bovesaid, this is naught, for he cannot be acces-

fary before the fact done, 21. H. 7.35.

The place, (viz.) the Towne and Coun-8. For the ty where the fact was done, must be certainly set place of dodown in every Indicament, as Dale in the Counthing, and ty of Glouc. And therefore if the Indicament suphow that pose an effence to be done, and do not say in what be laid town, it is void: so if he do not say in what Coundown.

ty, 9. H.6. 1. If he suppose it to be done in such a place as is not within the County; it is naught.

9. H.6. ch. 1. 18. H.6. ch. 12.

As if an Indictment be laid to be at Islington, and say not in what County, it is void. So it one be indicted for selling tanned Leather, and do not say where, or to whom, this is void for incertainty,

Broo.

Broo. Indictment 42. Broo. pleading 158. Lamb. Part 2. 149. And if an Indictment be that he gave the Chap. 14

Livery at fuch a time and place to him, and that he did weare it, but doth not fay when or where, this is not good, 5 H.7,18. Or if he be felling and making of ranned Leather, and no place where, it is naught; for it is traversable, 1 Ric. 3.1. Lamb. 7 P. 499.

If the offence be laid to be at Dale in the County aforesaid, having reference to the name of the County, in the margent of the indictment, it is doubted whether this be a good indictment.

If one be indicted, that he by the command of one A. did rescue a felon, this is not good, for it is not shewed where the command was given, 2.H. 7.12.

But the fetting down of too much, as if it be at D. in the County of G. in a certain place called

North-close, wil not hurt the indictment.

If it be that he distrained at Dale, and # S rescued the diffresse, and doth not say where it seems this is good, for it shal be intended the first place, otherwise it were in case of such a return by a Sherift of the rescue of a person.

When feveral acts done at feveral times do make up the offence, as the stroke and the death, both places must be laid down certainly; and therefore if the indictment be that A at Dale affault made, and him murdered, without [then and there] it is

not good. Dier 69.

If the indictment be, that he gave the wound 27 at D. in the County of G. and that he died at S. ec. and fo he murdered him at D. this is naught, for he can no more fay he killed him at the first place, then the first day, Cook. 4.12.47.

The

. The indictment may suppose part of the offence Part 2 to be done in one County , and part in another Chap. 14

County, and yet good.

The name and quality of the thing in which 9. For the the offence is committed, must also be certainly name and fer forth; as if an indictment be for forcible entry quality of the thing in into land, the indicament must fay what land. which the Therefore to say with a strong hand they entred offence is the Tenement &c. is naught; for Tenement may committed. mean a house, as wel land, meadow, or pasture, Lamb. F.P. 499. So that he entred the fite of the Incertainty. Manor of S. or the mansion house of WS. this is void for incertainty, Trin. Fack. B R. and if it be felony, it must be a personal thing, else it cannot be felony, Toung 121.

An indictment of the taking of goods and char-

tels, it is not good in trespass or felony.

If it be dead things, it may be bona & catalla, expressing the name of the thing in certainty, but if it be of things living, it shall not say goods and

chattels, but an horse, ox, sheep, &c.

The value or price of the thing wherein the 10. For the offence is done, must also be certainly set downe, value or to shew the nature of the offence, and whether it price of the be petit Larceny or not, as a certain cow &c. of thing, in the price of 40. shil. &c. feloniously took; for which the where the number ought to be expressed, as if it be for taking sheep, doves, &c. the indictment must fay of the price, or to the value, so much, or else it is not good. And therefore an indictment against A. that he imported one load of hey, omitting to Committed. the value, was adjudged void; an indictment in felony or treipaile, for taking goods and chattels, without expressing the name and value of the thingsis void for incertainty. So an indictment

offence is.

Part 2. b eaking a close, and carry away corn, omitting to Chap. 14 the value, is naught, 9 Ed. 4. 1.

description of the mit. ner of the offence.

The matter it felfe, the nature of the fact, 11. For the and offence, and manner of the doing of it, must be also cleerly set forth, that it may be distinter & man guithed and feen what the offence is, whether Treason, Felony, &c. and against what Law it is, otherwise the presentment or indict ment will not begood. And therefore if the Indictment be, that A taken for felony, feloniously and at large he permitted to go, and doth not fay for what felony he was taken, this is naught, 8. El. 4. 4. So that feloniously he broke prison at A. and doth not shew for what hee was imprisoned there, 9 Ed. 4. 12. 25. Ed. 3. ch. 9. S) if a man be indicted for making of an hundred shillings of Alcumy, like the mony of the Common-wealths, and doth not alledge what mony it was, groats or pence, this is naught, Fitz. Indictment 10.

Incertainty.

And therefore in murder, and man-flaughter, it is good to expresse the stroke whereof the death ensued Dier 69. If the Indictment be, that hee killed with a dagger, and it was a sword, it is good enough, Cooke 967. Toung 128.

Darvel was indicted for killing Bowfer, and it is found they were both in the field with their weapons, and that Bowfer going out of the field, and returning, drew his sword upon Darvel, and that then Darvel returned back from the hedge and said, tis no place to fight, and io Bow. fer thoke Darvel, and then Darvel killed Bowfer, and hence we collect (laith the Jury) that Darvel killed Bowfer in his owne defence, and this

Chap.14

this was quashed for ambiguity and incertaintie, Part 2

Hill.17. B R.

An indictment for murder was quashed, for that it faid, with a fword he struck, and omitting which he held in his hand, also for that it omitted that feloniously assault he made upon him, &c. Also for that it did not shew after the dans ei &c. that part of the body that was wounded; also for that it said struck, and omitted then and there: but exception was taken, for that it is faid dans ei, &c. and did not fay idem, but this was not allowed, Fullers cafe, B.R. Longs cafe, Cook 5. 20. percuffit to expresse struck, is a material word.

If an indictment be for a wound, and it be laid to be under his left arme, or under his pap, or about his navell, these are void for incertainety; but under his arme, about his pap, or in the left part of his body, or in the left part of his belly about his navel; these are good and certaine enough, Cooke 4. 41. 9. 114. 9. Fac.

So if the Indictment be, that he gave one a mortal blow about the breft, this is not good; for it must say in what part the wound is, the depth and breadth of it, if it be not a part cut off. And if there be two wounds alledged, and one of them is more uncertainly set downe, this will marre the whole Indictment; if he fay, of the wounds foresaid he died, Cooke 4. 41. 5. 120. 9. 62. 114.

Indictment was for poisoning, and said, that he perswaded the other that the potion was mixed with Cantharides, and would make him have issue, &c. not knowing the foresaid drink

drink to be mixed with poilon, but trufting the foresaid perswasion (the said W.took and drank) omitting poilon aforesaid, and it was naught, and that the words following immediately after the taking of the poison aforesaid wil not help, for a fault in an indictment, cannot be made up by implication, Cook 4.44.

The indictment was thus, The son had taken his sick father, and carried him into the cold weath whereof he died; it was disallowed, because it wanted seloniously, and struck is an apt, if not a neces-

fary word for this indictment.

An indictment was, That a certain A B. within the liberty of our Lord the King of his town of Cossam, & c. under the pap (mamillam &c.) gave a wound &c.giving with a leaden bullet, &c. penetrating into, and through the body & c. and exceptions were taken, 1. For that the village of Cossam was not said to be within the Liberty, and therefore nncertain. 2. For that it was fubter mamillim, with a fingle m, which is a word infenfible. 3. For that it was wound, for that the depth and breadth of the wound was not described; but these were over ruled: and another exception taken out of these words, That a dag with powder and a leaden bullet laden upon him H.he discharged, giving the same &c.one mortal wound, omitting the word struck, and for this it was quashed, after outlary, and he discharged, Cook 5.20.

If an Indictment be against #8 for a stroke, 4. Augusti, and death thereby, 19. December, and it goeth further, and saith, That T,M, &c. the time of the felonic and murder, the 4. of August & c. feloniously were present with swords &c. then and there aiding, assisting, &c. it was ad-

judged

judged insufficient, for the murder was not til the Part 2. last day: it should have been, in manner and Chap. 14 forme aforesaid. Also in this it was agreed, that the clause of aiding, &c. is necessary, in this cause, and that without it the indictment is insufficient: for an Indictment cannot be supported by argument or implication, Cook 4.42.47. 5.120. 9.62.

One was indicted for taking a half penny from another in the high way, and affault he made was omitted, therefore the Court resolved it a good Indictment for felony, but not for robbery, and therefore he had his Clergy, Hil. 27. Jac. B. R.

Dier 224.

John Green was indicted for stopping an highway leading from the village of A, to the village of B, and exception was taken because he did not shew with what he did stop it; but it was not al-

lowed, Hil. 18. Fac.

An indictment was preferred in Banco Reg. for subornation of perjury, and the substance of it was this, that where the 25. of Fanuary, 18. Fac. divers articles were preferred in the Court of Chancery at Westminster in the County of Middlefex, for the good behaviour against IS. and Henry Ockley, then and there produced to testifie the truth of his knowledge upon the articles forefaid, then and there swore the said articles to be true according to his knowledge, whereas in truth the foresaid H. knew not the foresaid articles, or any of them to be true, and so the foresaid Henry manifest perjury, then and there committed, and that the faid Fohn VV hitly did then and there fuborn him to commit the faid perjury, Contra pacem, and against the Lawes of the Commonwealth

Par: 2.

And two exceptions were taken to this. 1. For that he did not alledg that the articles were falle. Chap. 14 For if they be true, and he swear them so in his knowledge, though he know them not to be fo, this is not perjurie. But this was disallowed by the Court, and held to be perjury. And a fecond was taken to ir, because he did not conclude against the forme of a Statute. For it was said, that perjurie was no offence at common Law, except only in the same Court where it was done; but this was disallowed also. And it was held, that perjurie was punishable by the common law.

Mich. 20. fac.

The inhabitants of Epny were indicted for fuffering two cribs to lie unrepaired, by which the water over-flowed into the high way and marred it; and exceptions were taken because it did not shew how these inhabitants were chargeable by prescription, and therefore quashed. But if the Indictment had said, That the Inhabitants of Epny ought to have repaired it, it might have been good, especially after a verdict, and the inhabitants found guilty; for it is then to be prefumed that they were fatisfied how they were chargeable. And if there be a Nusans, by the not cleanfing of a river, and it cannot be known who should do it, it seems they must do it that have or may have most benefit by it, as those whose grounds are neerest, or have the fishing there. Broo. Presentment. 5.10,11.

A presentment was, that he had stopped a course of water from S. by suffering his trees to grow to the Nusans; it seeems he shal not be amerced for this, til he be commanded to amend it. Bro. Pre-

fentment 11.

One was presented, that he and all those, &c. Part 2. were wont to cleanse such a gutter for the ease Chap.14 of the high-way, Ratione tenura ejusdem terra, and exception was taken that he did not thew where the land is ; for he may fay, that the land is not charged, or that hee hath it not, or the land may lie in another County, and then it is not triable here. But if it had faid by reason of the tenure of the same land, this might make it good. So if it be Ratione terrarum in S. in general, it is good. And in these cases, it must be the Kings high way that fuffers, elfe the party indicted may shew it. 5. H. 7.3. Bro. Prefent, 9, 10,18,22.

A Presentment that there is such a high-way that I S. by reason of his Tenure ought to repaire it, that it is decayed; was ruled to be naught, because it wanted these words, from the time the contrary of which, 21 Ed. 4. 73. Broo. Prefent-

ment, 19,20.

If the Indictment bee , that a man made an 100. I. of Alchimy like the money of the Common-wealth, and doth not shew like what money, as groates, shillings, &c. this is not good. Dier 96. So, that hee spake words against Incertainty. the King, and shew what wordes incertaine, and then, adde , or fuch like, Broo. Action fur le

An Indictment against a man that he is a common Thief, a common mis-liver, or a common Fore-staller, or a common conspirator, or a common Champertor, Broo. Indict. 12, 19. Toung 117. and thew not in what particular, it is void, Plom 75, 29, 45. So, to fay of an Officer,

Part 2. he is a general Extortioner, 25. Edw. 3. Stat. 3.

Chap. 14 chap. 9.

So to fay, they are Insidiators of the wayes, and Depopulators of the fields, they are void: 4.H.4.

ch. 2. 17. Edw. 4.4.

If it be that IS. of &c. (being a common deceiver of the Subjects) the 18. of Jan. the 17. of Jac. at L. in London aforesaid, two stalks of clothes (Libraras) in stead of two clothes, for 18.1. of lawful mony of Eng. to AB. of S. deceitfully sold, then warranting them to be clothes, whereas he knew them to be counterfeit, &c. This is a good indictment. Pikes case.

To indict a man for Battery and wounding, and not fay with what weapon, nor in what part

of the body he is wounded, is naught.

Yet to say that he slew a certain man unknown, or for the stealing of the goods of a man unknown is good, Stamf. Pt. Cor. 94. Toung. f. 117. Coo. 120.

If there be two degrees of an offence, as making and publishing, and the indicament speak

but of one, it is naught. 6. H.7. F2.

To charge a man with homicide, and not to lay with what weapon, is not good. Buttons case, 14. Fac. B R.

An Indictment that I S. when he was an Officet, took from VV S. twenty shillings, it seems is good for extortion. Brook Indictments 17.

If an Indictment be against an accellary, the manner of the felony must be set down. And that he knowing him to have done such a selony, did seloniously receive him; otherwise it is, it he be attainted of selony in the same Gounty.

And

And therefore it is not good to fay, he received Part 2. the goods, and not the felon. Stat. 2. 6 3. Ed. 6. Chap. 14 ch. 24. nor to fay, that he knowing him to bee a Felon at A. he received &c. without shewing what felony he committed; nor without faying, he knowing it, received him feloniously, unless he receive one attainted with felony in the same County, 7 H. 6. 42, 65. 2 Cooke 4. 43, 44. Toung 125.

An Indictment being, that A was present when B. was murdered, and faid not that he did ftrike, aid, comfort, or cause to be stricken, it

was quashed, Brook Indict. 15.

If it be knowing those men felony &c. to have committed at D. feloniously hee received, &c. this is naught also; for it doth not shew which of them he received. But it must be, that he did receive them all four by name, or three, two, or one of them by name, 30 H.6,2. And yet if four be indicted jointly, they are hereby indicted leverally, Poulton de pace 168.

If an indictment find any matter of record, as 2, Fer other Outlawry or the like, that is not hewed to the cause. Turors under the foot of the Seal, it may be rejected, for Jurors are to find matters of fact onely,

Lamb. 7 P. 303.

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If a man be indicted for an offence at the On the Sta Common-law, which is none, this is void, and it shal bee the party must be discharged. For if it be an of- made, and fence made upon a Statute he must then be indi- when good, Aed upon the Statute.

The indictments that are grounded upon a feature, need not (as heretofore was used) to recite all the Statute verbatim, and the time of the Beginning, continuance, and end thereof. Nor

or not. Milrecital

is it policy fo to do; for mifrecital is dangerous; and will make the Indictment void. Statute for Substance must be pursued strictly, and in terminis in the Indictment. And the material words according to the purview thereof, and the offence sutable to it, must be certainly, and with full words described; for if any thing materiall in the fetting forth of the statute, and the offence, be omitted, the wordes [against the form of the Statute] (which do only supply matter of circumstance, and not of substance) will not help The course therefore is fully and certainly to describe the offence against the tenor of the Statute, and to make the Indictment as large as the Statute, and then to conclude in these words, against the forme of the Statute, or of divers Statutes of our Lord the King, &c. where there be many Statutes thereupon fet forth and provided, and against the forme of the Statute, omitting all that comes after, is good enough, Plow. 79, 80, 84. Dalt. 360. Cromp. 93, 94. Lamb. 7 P. 592. Toung. 121. But if these words, [ against the form of the Statute ] be left out in an Indictment for an offence which is so by a Statute, as a Riot, or the like, the indicament is erroneous; for the offences are not punishable but by the Statute, Lamb. 502. (rom. 88.

If the Statute say, the subsidy not paid, or the Collector not agreed with; it is not sufficient to lay in the Indictment the Subfidy not paid, without faying the Collector was not agreed with

Plow. I.

If the Indictment be according to the words of the Statute, and not according to the lense, it is good enough, and the party may help himselfe by

plea d-

pleading, or giving in evidence the special matter. As if an indictment be against a man for taking of more then the market price, and the case was, that he took it of another, not of his guests, 18. Fa. B. R.

And Indictment was against divers men, that being sixteen years of age, they had not come to any Parish Church by the space of a month; exceptions were taken, 1. Because the Indictment did not say they were Popish Reculants. 2. Because they did not say, having no lawfull excuse for their absence, and quashed. For an Indictment upon a statute, must contain all the material passes.

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is by An information was exhibited in the Exchequer, and thereby an usurious contract in certain, that the party had taken more then the ten pound for the loan of an hundred pound, did appear, so that it was corrupt, and it did plainly appear; and he concluded against the forme of the Statute, and because he did not say expressly, that it was by corrupt loan, according to the words of the penal law, the information was adjudged insufficient, Cooke 11.58.

A. was indicted upon the statute of 5. El. c.i. 2. for aiding another, knowing him to be a principal maintainer of the authority of the Bishop of Rome, with these wordes, against the form of the Statute; but because the Indictment wanted certain material words, expressly mentioned in the statute, (viz.) upon purpose, and to the intent to extoll the authority, &c. It was by the more part of the Judges agreed to be void. Dier.

And yet it is, that an article upon the Statute,

Minister in time of divine service, against the torm of a Statute, without [willingle, and of service] was good, 42. Eliz. B. R. Travers case. Dier 142, Pl. 86.

So it one bring an Action upon the Statute of 6 R. 3. of a Feme ravished against the form of the Statute, and it is not said, the consented to the Ravisher, is good, whereby it appeareth, that the Law is not so nice and precise in case of declaration between party and party, as it is in case of indictments, 11 H.4.13,14 Cook 5.120.

If an indictment be, that A. differie B. on force, against the forme of the Statute in the Parliament of the L. H. the 6. lately King of England, the eighth year of his Reign, is not good, if the entry of A be lawful. But it must be that A. expelled B.

out of his Franktenement.

A Presentment was thus :

John Smith of Ludlow in the County aforesaid, being the Servant or Deputy of Oliver Floyd, Official and Commissary of the Bishop of Heref. the 27. of Feb. the 18. of Jan. extortiously required, had and received eight shillings of lawfull &c. of Thomas Maud of &c. for writing the Administration of the goods and Chattels of John Lile deceased, &c. by colour of the Office of the said Commissary, and the indictment was quashed, because he did not say, Servant or Deputy of the Commissary. And afterwards he amended it, and made it, being Scribe or Deputy of the Commissary, &c. and it was quashed again.

Alfo another exception was taken, for that he did not fay, of what value the goods were, and yet

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faid, against the forme of the Statute , for the Part 2. goods may be above 40. l. and then it is a case o- Chap. 14 mitted; and in this case it was agreed, that if there be any fault in the indictment, [against the form of the Statute] wil not help, Mich. 28. Fac. As if an information be for usury, and doth not fay, corruptly, [against the forme of the Statute] wil not help, for those words supply onely circumstance, not any matter of substance. Opinion of the Court. 18. Fac. B. R. Dier 3. 12. 363.11 H. 4. 13.

One was indicated upon the Statute of Q.M. for high-wayes, and divers exceptions were taken to it. 1. For that it did not shew who were the Surveyors then; but it was ruled that they need not be named. 2. For that it shewed, that they gave notice after Eafter, and did not shew which Easter; but it was ruled, that it was fufficient to fay, that a day was appointed for reparations, at which day he made default. 3. For that the indictment faith, having two Corves of Land, and the Statute faith (occupying ) but it was ruled to be good, for if one luffer his land to be fresh, yet he is within the Statute. 4. For that he did not fay, the way to be amended, doth lead from or to a Market . Town; and it was ruled to be good, for it faid, that it was an high-way that leads from Town to Town. Mich. 21. Fa. B. R. By the Court,

Presentment was thus :

That a certain A I. being an Hoftler the 1. of Fune, the 17. of \$1. had, and received at the Parish of S. of divers Subjects of our L. the King, for tyvo hundred bushels of Oats, sold, and uttered within his Mansion house, according to the

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Chap. 14

the rate of two shillings and fix pence for the bushell: vyhereas the first of July the 16. of Ja. and after to the 7. of June the 17. of Jac. the common price of Oates in the Markets of Brainford and Stanes, and other Markets of the forefaid County of Middlesex, was not beyond the rate of 20. d. for every bushel, against the form of

the Statute, &c.

And upon non-guilty, the Jury found him guilty, and divers exceptions were taken against it (amongst others) that hee did not alledge exprefly the common price of the Market, but faid that the price was not beyo: d. 2. That he faid, where the price was not beyond zo. d. for every bushel, where he ought to have faid for any bushell, or for Oats. 3. For that he did not say, that hee was an Holler at the time of the offence. 4. For that he faid of divers subjects, whoreas he should have said, of divers guests. 5. For that hee faid, within his Mansionhouse, when hee should have faid, within 6. For that hee alledgeth the his Inne. sale to be without rime or place? 7. For that hee said, Recepit pro 200. modiis avenarum, Anglice Bushels, and said nor of Oares; yet the opinion of the Court was; that the Indictment was good. Hill. 8. Fac. B. R. Fohnsons cale.

A Parson was indicted in . B. R. upon the Statute 1. Eliz. for not celebrating the Sacrament of the Lords Supper, according to the Rites and Ceremonies of the Booke of Common prayer, made in the time of Ed. 6. (viz.) in not placing the Communion Table in the midst of the Chancell,

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fome convenient place for the people, and Part 2. in compelling the people to come to a Raile at the upper end of a Church, not convenient, &c. and it was quashed, for that it did not shew what Rites are contained in the Common-Prayer Book, and it is too general.

Serjeant Richardson was indicted upon the Statute of Westminster 1. chap. 29. and two exceptions were taken to the Indictment. 1. In the forme, for it charged him that he spake these words, Anglice, He knew it to be otherwise: Where it should have been, I know it to be otherwise, For otherwise it is incertain and insensible. 2. In the matter. 1. Because it ought to be in pleading, not in speaking: 2. Because this Statute did not extend to the Star-Chamber: For this was not erected at the time of the statute, but these words were laid to be spoken there, and it was quashed for insufficiency. Trin. 20. fac. B. R.

A and B were indicted, because they riotously such a day, entred the Messuage &c. of 18 at D. in the County of S. being the Franktenement of the said 18. against the statute, &c. and it was quashed, because he did not say, then being the Franktenement of 1.8. H. 16. Fac. B. R.

1.8 de Ge.was indicted, because he dwelling in Brainford. 1. die Apr. 7 Jac. and being a Pedler, at divers times and places a vagrant and idle person, and was a Pedler wandring at divers times and places in Middlesex, and that the 11 day of May, 7 Ja he went to Hackney, and then

and

Chap. 14

Part 2. and there fold a quoife, and divers other wares at Hackney, and divers other places, to divers in their houses, and out of the Fairs and Markets, against the Laws and Statutes in this case provided, and

fer forth, and it was adjudged good.

One was indicted upon the Statute of & Fac.c.5 at the Sessions in the County of Oxford, that he having an issue male, did not baptize it within a month after the birth of it; and exception was tar ken to it, because he did not say when he had it, for perhaps he had it before the Statute, and then it was out of the Statute; but this exception was not allowed, for it was faid, it should be intended after the Statute, and where the Statute Speaketh of questioning the party in a Court of Record, it shall be understood by information in the Courts at West minster, by Indiament in other Courts of Record.

An Indictment was for entry into one Meffusge or tenement, and two acres of Land to the same Meffuage belonging : and the indictment was farther, that out of the possession of the Messuage aforesaid he held out, and it was adjudged insufficient, and the offenders discharged; for Melluage or Tenement is so incertain, that the Court cannot rell of what to make restitution, and it is not good, for the Land belonging to the faid Melluage is not good for both refer to the first incertainty.

One was indicted upon the Statute of 8 H. 6. and exception taken, because in the first part of the indiciment is a Melluage, and after, house aforefaid, and ruled good; for it is all one.

Fac.B.R.

One was indicted for entring into Land, and ouring the Termor, and diffeifing the Leffor, and

and it was found, if the Lessor refuse reftitution, Partz. ver the Leffee may pray, and have it. Trm.7 Fat. Chap. 14

BR. ter Williams juftice.

An Indictment was, that where A was Leffee for years, the Revention to B. and C. enter with force, and upon A and differred B in the Reversion, and onitted thele words, and did out A. of his Term, and it was adjudged void; for if the Leffee be not out the Reversioner is not out. Mic. 7. Fac. Shellitons Cale.

In the indictment upon 8 H.6.c.q. it was faid, That he against whom the Bill was preferred, diffeiled him that preferred the Bill with force and arms, with fword &c. omitting with strong hand expelled; adjudged good at Stafford Affizes. 22. Euz. for that it laid, against the form of the Statute foresaid, which was rehearsed in the Bill.

An Action was brought upon 21 H.6. for not returning a Burgelie. The words of the Statute are, That the Sheriff shall fend his Precept unto the Mayor, and if there be none, then to the Bailiff. And the Information was, that he had made his Precept to the Bailiff, and did not aver that there was no Mayor, yet ruled good, for that is intendable; unless it be shewed on the other side. Hobert Rep 107-

An Action was brought upon the Statute of 6 R 2. of a Woman ravished against the forme of the Statute, and it was objected that it was not laid, that the did confent to the Rayither, but because it was laid to be against the forme of the Statute, it

was held good.11 H.4.13,14.

A- brought I relpatte against B. upon the Statute of 51.H.3- that no man be distrained by his beafts of plow &c. and count for the taking a-

away the Beafts of the Plow, &c. but did not shew that there was any other distress, yet it was adjudged good by these words, against the form of the Statute. Dier 312.

An Action was brought upon M. for disturbing the Minister, &c. and it was objected, that the words [purposely and willingty] being in the Statute, are omitted in the Court; yet it was adjudged good by reason of the conclusion, against the form of the Statute. 42. Q.E.B.R. Trevers Case.

13. When it is with a Certificate.

An Indictment is sometimes certified by the Justices of Peace to another, and sometimes by another, as from the Coroner or Steward, &c. to them. And in both cases as it is certified, it may become erroneous, and liable to destruction. As if an Indiament fent into the upper Bench, or an Inquisition taken before the Justice of the Peace, and omit, as also divers felon. &c. or omit, to conserve or assign, 12 H.7.25. 2 R.3.2. Or if it be taken at the general Seffions of the Peace, and fay not before what Justices of Peace; or if it omit, by the oath of honest and legal men; or if the Inquisition be taken on Tuesday and Wednesday, thefe are all naught. Cook 9.31,114. Cook 4.48. Or, the Jurors present, and omit all their names. Orathe Inquisition taken such a day and year before I S, and name no place. Dier 69. Brook. Indiet. 50. And if he shew not by wha: Commission the Justices took it, it seems it is not good. Stamf 96. 22.Ed.4.12.

If a Coroner fend in an Indictment, and return it taken before I.S. Mayor of London (who is alwayes Coroner) yet if it say not, and Coroner, it is not good, for it may not be supplied by intendment, 2 Ed.4.10. So if it be before the Coroner

Coroner, and fay not in what County it is But if Part 2 it say, before 13. Coroner in the County, or of Chap. 14 the County foresaid, it is good enough 5000 much

fubtilty in Law is condemned.

If an Indictment be said to be taken before S. Steward, and say not in what Court, and to whom he is Steward. Or it be said to be taken at the great Court of 15 with the Leer, or at the County of Middielex, with the turn of the Sheriff;

these are not good.

An Indicament not good to one purpele, may When an be yet good to another : as if one be indicted of indicament felony, and the thing falleth out to be no felony, purpose, but is Trespasse, then the indictment is good for may be Trespasse, to put the party to his fine. Cromp. 96. good to an. If A be indicted for stealing the goods of B. and nother. the Jury do find that C stole them, and A tock them, but not feloniously from him, this is not good for the felony, but it may be good for the Trespasse. But if A be arraigned upon an indictment of murder taken before the Coroner, and is found not guilty; as they must find who did kill him. So if they do find that C did it, this is good. Stamf. 90. Young 125.

If an indictment be, that feloniously he cut down trees, and those carried away, or with force and armes cut down trees, and feloniously carried away; neither of these will make it felony, it may be a Trespasse; for no felony can be in trees standing, but if it be with force & arms cut down trees, and those feloniously (at another time after) took and carried away, this may be felony. And where in an indicament of felony, feloniously is wanting, it may neverthelesse stand good to make it a Trespasse. Though an Indict-

veid to one

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when an Indiament may bee a-vouled, and the party indicated diffcharged thereof.

ment that is faulty (as it feems) cannot be falved by amendment, St. 18 El. 13. as other Records may be, yet it may be avoided by Plea. St. 7. H.8 8. before judgment, by exception, for error before or after a Judgment, and by a Writ of Errour after a Judgement or Outlawry, which may be had in the Upper Bench after the removal of the indie ment thicher. But if a man will avoid it for any formal fault in the addition, it must be done before the party indicted hath pleaded to the Indictment; for by it he taketh on him to be the fame person. 8Ed. 4.15. 35H.6.1 2. Yet Outlawries thereupon may be reverted for this defect at any time; but of other Errors the party may take advantage at any time before judgment to quash, But if the first or after judgment to reverse it. Indictment be in a wrong County, or the first charge him as principal, the second as accessary after the fact.

If one have been indicted for the same offence, though by another name (being called by two names) for which he is now indicted, or hath been convict for it, by appeal at the suit of the party, he may plead this, and avoid the indictment, Dier 85. Cook 4.40,41. especially if it be felony; for a man must not be twice questioned for his life for the same offence, but being once convict, or acquit so long as this Indictment is in force, though the new Indictment suppose the fact to be done in another year, or the Processe be erroneous, or be quashed for insufficiency, he may not be incicted de noto. Poulton de pace 169.

If the indictment be about a thing whereof the Justices of the Peace have no Contilance, as which belongs to the Justices of the Forrest, or

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the like, the party indicted may plead it to the Ju- Part 2. risdiction of the Court, and avoid the indictment. Chap. 14

Sir Richard Hargrave. Hill. 17. Jac. B.R. was indicted for stopping of a way in the County of York, and he moved to be discharged, because he forty years before had inclosed the way, and then left a good and convenient way, which had continued ever fince; and the Judges of the Court resolved, that if the Justices of the Peace would certifie this to them, he should be discharged.

If the Indictors be felons, such as have beene out-lawed and quitted by pardon, and are not honest and legal men, the party upon shewing this exception (it seems) may be discharged. 12 H.

4.35.

The Kings Pardon is a good Plea in Barr of an Indicament. So that one was indicated before of the same selony, and acquitted upon it. Toung 124,125.

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CHAP.

## CHAP. XV.

Some Indictments used in the Sessions of Justices of Peace.

## Indict manta for Standers.

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Glouc. f.

He Jurors for the Lord Protector, do present Gc. That whereas D. P. late of A in the County aforesaid, Yeoman, at A aforesaid, in the County aforesaid, and I P late of &c. Laborer with force and arms, feloniously, and of their malice forethought, one WW in the year of our Lord God, 1650. had flayne and murdered. And whereas afterwards; that is to fay, the first day of May in the year of our Lord God 1651. one T G at L in the County of Lanc. in consideration of eighteen pounds of lawful money of England, to him by one I P contented and paid, undertook that the Murder of the faid WW, before the Justices &c. at Lane. at the next general Gaol delivery at Lanc. then next to be holden, should be presented, and found against the said D P Manflaughter only, and not Murder; and whereas also afterwards, viz. (iuch a day & year) at Lang. in the County of Lanc. before I B and F R two Justices of the Keepers &c. at the general Gaol-delivery, then and there holden, by the Oathes of twelve good

good and lawful men of the County of Lanc. it Part 2. was found and presented, That the foresaid DP and WP with force and armes, feloniously, and of their malice forethought, the faid WW did kil and murder, and so the killing of the said WW, then and there was found Murder, and not Manflaughter only: By reason whereof the said I P required the said T G to pay back the said eighteen pounds to the said fohn, which money the Said TG did altogether refuse to pay to the said F. faying and alledging, that he had given and paid the faid eighteen pound to certain persons; viz. to the laid F R one of the Justices aforelaid, Ten Pounds. That the faid T G late of &c. in the County aforesaid Yeoman, the first day of June in the same year, at Lanc. aforesaid, in the County aforesaid, malitiously, contemptuously and opprobriously in the publick reproach, scandal and defamation of the forelaid F R, (being one of the Jultices afcrefaid) his degree and dignity, did openiy and publickly speak and utter these false, fained, scandalous and opprobrious words following; viz. That Justice R. meaning the fail F R, had ten pounds, meaning. Ten Pounds, part of the said Eighteen Pounds; whereas in truth, no such thing was by the faid F R ever done; by reason of the speaking and uttering of which words by the said TG, the said FR, his Estate, Degree and Dignity hath brought into great reproach and contempt, as well amongst the Nobility and great men of this Commonwealth, as allo among other good and faithful people thereof, and contrary to the form of divers Statutes in that case made and provided. L

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3. For flander of a common person.

The Jurors, &c. do present, That whereas A B of C in the County aforefaid Yeoman, hath alwayes been of good name and fame, and of honest behaviour and conversation, and without any scandal, and without any stain of Robbery, Thefr or any other Crime, and without any scandal of the same, and from all manner of Deceipts and Frauds and evil doings hath been from the time of his birth until this time, hath well behaved and governed himself, and of such state, converfation and honefty hath been among all his neighbors and all other people of this Nation to whom he was known, without any what soever criminous wickednesse of Robbery, Theft, or any other Fraud, or other such like Crime hitherto charged upon him. Nevertheless, one & P late of Q in the County aforesaid Weaver, knowing the premiles to be true, by the infligation of the Divel, and his own perverse malice, intending the estate, honesty and opinion of the said A. to deprive and hurt, and the said A to be taken to be of so evil conversation, condition and behaviour towards all the good and faithful people of this Nation, that he the faid A should utterly perish and be destroyed, and that all the faithful people of this Nation should withdraw themselves from his society and company, -- fuch a day and year &c. at P in the County aforesaid in the presence and hearing of T S and divers other 'credible persons to the said A. known, of the said A did speak, report, publish, and with a loud voice pronounce these Enigish words following, viz A B is acquainted with all the Rogues and Theeves in the Country; & doth harbor many known Theeves in his house:

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by reason of the speaking, uttering and relation of Part 2. which words, the faid A. in his estate, good name, Chap. 1 and his affairs with honest men with whom he had commerce, is very much hurt and damaged, and contrary to the Peace, &c.

Indictments for Rescous of all sorts, and for riotous Rescous.

The Jurors, &c. upon their Oath do present, 3. For Ref-That whereas I R Bailiff of the Keepers &c. of cous upon a Darby, by vertue of a Precept of the faid Keepers Bailiff. of Levari facias to him directed by H N Gentleman Steward of the Wapentake Court of the faid Keepers &c. of Darby, did take one brass pot of the Goods and Chattels of E K the Relict of I K of W in the County of Lanc, to take and levy the fum of fix shillings eight pence against the said E K recovered in the foresaid Court of the said Keepers of Darby, to the use of RH of N in the County aforesaid Gentleman, according to the form and effect of the Precept aforesaid. late of W aforesaid, in the County aforesaid Hulbandman, the first day of September, in the year of our Lord God 1649 at W aforeiaid, in the County atorefaid with force and ar nes, the faid pot from the faid Bailiff, did take and rescue, and thereby the faid Bailiff in the execution of the faid Office did obstruct and hinder, with force and armes as aforesaid, in contempt of the Keepers &c. and to the evil example of other Malefaftors, and against the Peace, &c.

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Part 2. Chap.15 4. For a Refcous of a a Ryot.

The Jurors do present &c. That whereas A B late of C in the County of Tork aforesaid Husbandman, the tenth of September in the year of Distresse, & our Lord God, 1652. was seised in Fee of twenty Acres of Land with the appurtenances at M in the faid County of York, which I H then held of the faid A B for terme of his life, by certain fervices for yearly customes and services, which being to him the faid A B then due and in arrear, he caused R B his servant to take and distraine one Cow of the faid I H then being and depasturing in the fail twenty Acres of Land, and the faid RB the faid Cow then and there taken and distrained. in the name of a Distresse, according to the Law and Custome of this Commonwealth of England, unto the common Pound at M in the County aforesaid, would then and there have driven, and there to have kept the same. Neverthelesse one R H late of M in the County aforesaid Husbandman, and I K at L M. &c. the faid tenth of September in the year aforesaid, at M aforesaid in the County a forelaid, with force and arms; that is to fay, with staves daggers, clubs and other Weapons as well invafive as defensive, did unite, and riotoufly and unlawfully did affemble together, with intention to diffurb the Peace of the Commonwealth; and so being united and affembled in and upon the faid R B in the peace of God, and of the Keepers of the Liberty &c. being, did make an affault, and him the faid RB then and there with force and arms riotously did strike, beat, and evil entreat; and the forelaid Cow then and there, that is to fay, in the faid twenty Acres of Land at M aforesaid, so distrained, from the said

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R B with force and armes, rioroully did rescue Part 2. and take away, and other harms to the faid AB Chap.15 and R B then and there with force and arms, and riotoufly did do to the great damage of the faid A B and R B and contrary to the Statute, &c. and against the Peace.

The Jurors &c. do present, That whereas I G Constable of A in the faid County of Lanc. by 5. Refeue up vertue of a certain Warrant to him directed under be. the seal of R H one of the Justices of the Peace of the faid County, did take and attache one TB to do and receive, according to the tenor of the said Warrant. Nevertheless one G O late of A in the faid County Husbandman; and LM. N.P., (and fuch as are to be indicted) the tenth day of April, in the year of our Lord God, 1652. at A aforesaid with force and arms; that is to say, with staves, swords, daggers, clubs and other weapons, as well invalive as defensive, did riotously unite, and unlawfully affemble and gather themselves together to the great terror of the people, and with intent to disturb the peace of the Commonwealth, and to being united, affembled, gathered together, then and there with force and armes, and riotoufly in and upon the faid I G in the peace of God, of the Keepers of the Liberty of England being, did make an affault, and him the faid T B with force and armes out of the cultody of the faid Constable riotoufly did take and rescue, and the faid T B himselfe out of the custody of the faid Constable then and there did likewise rescue, to the great damage of the faid Constable, against the peace, &c.

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6. For a Refcous of cartle, taken damage teafant.

The Jurors &c. do present, That A B late of D in the faid County Youman, the first day of April in the year of our Lord God. 1652. was possitled of, and in the Monor of H aforesaid, with the appurtenances in the County of L aforefaid; the same A. the same day and year at H. aforesaid, in the County aforesaid, did find certaine Cattel; that isto fay, fix Oxen, four Kine in a certain field, containing by estimation twenty Acres of Pasture, parcel of the Manor of H. aforesaid, there doing damage, which said Cattel fo then and there doing damage aforefaid, I R and one ST the day and year aforefaid, in the name of a diffreffe, then and there did take, and unto S. in the County aforefaid did drive; where according to the Law and Custome of the Commonwealth of England, in a certaine common Pound there would have impounded. theless one TB of G in the County aforesaid Husbandman, and S L of G aforesaid, in the County aforefaid Labourer, with force and arms the day and year aforesaid, at S aforesaid, in the County aforefaid, in and upon the faid I R and S T did make an affault, and the faid Cattel then and there with force and armes from the faid I R and ST did take and rescue, contrary to the form of the Statute, and against the Peace of the Commonwealth.

7. For refcuing of a man taken by a Bailiff.

The Jurors, &c. do present, That whereas R. L. Esquire, Sheriff of the County of Salop, by vertue of a Writ of the Keepers of the Liberty of England, by Authority of Parliament to him directed, the second day of Fuly in the year &c. 1653. did make a certain precept sealed with his

Seal

Seal, to I P and L M his knowne and fworn Bai- Part 2. liffs, to take RS late of T in the faid County Yeoman, and him fafely to keep, fo that the faid Sheriff might have the body of the faid R. S before the Justices of the laid Keepers at Westminster in one month after Michaelmas, to answer unto GH of a plea, that he should render unto him five pounds, which he owed, and unjustly decained from him as he faid. And whereas the faid I P and L M with the faid Precept at W in the County aforesaid, the tenth day of August in the fame year, did go unto him the faid R. S, and him the said RS, by vertue of the said Precept, did take and arreft. Nevertheleffe the faid R S and one T Rlate of G in the faid County, Yeoman, and GH, late of T foresaid, in the County aforeiaid Laborer, the faid tenth of August in the year aforesaid with force and armes; that is to say, with Swords and Daggers, Staves and Clubs, and other Weapons and Armes, as well invasive as defensive, did riotously unite and gather themselves together, and unlawfully assemble, to the great terror of the people, with intent to disturb the Peace; and being so united, gathered together, and affembled then and there, with force and armes and riotously in and upon the faid Bailiff did make an affault; and the faid RS and T R, the foresaid R S out of the custody of the said Bailiff with force and armes, and riotoufly did take and rescue, and suffered him to go at large. And the said R S did likewise rescue himself out of the custody of the said Bailiff, to the great damage,&c. and against the Peace,&c.

Part 2. Chap 15 8. For refcuing him etf.

The Jurors &c. That whereas T. Esquire, one of the Justices of the Peace in the County aforefaid, to conserve affign. Commanded a certain R Constable of the Tithing of C. in the County aforesaid, that he should take a certain I lately of &c. and the same I before the said Justice cause to be brought, to answer those things, which of the faid Keepers of &c. should be objected against him: by vertue of which Warrant, the same Constable (such day and year) at W foresaid, in the County foresaid, took and arrested the foresaid I. and him in his custoffy had, until atter, viz. the same day and year, the forelaid Fibn with force and armes, viz. with a certaine Fork, upon him the Constable affault made, and him beat and ill intreated; and himself from the custody of the foresaid Constable rescued and escaped, against the Peace, &c.

9. For refcuing Cattel taken Damage feasant.

The Jurors, &c. That whereas certain B and C of the servants of 7 the tenth day &c. certaine Bealts, viz. three Cowes of a certain T Gentleman in a certain close of him I at &c. depasturing and damage there doing, lawfully had dithrained; that the foresaid T late of &c. and M. late of &c. having gathered to them very many other Malefactors and Perturbers unknown, of the publick Peace, in Warlike manner arrayed, by the instigation and procurement of the foresaid T. the same tenth day &c. themtelves at &c. unlawfully, riorously and rourously affembled unanimoufly, and gathered with that intention the faid publick Peace to perturb, and then and there the tervants of the foresaid 7. the Beasts aforefaid.

Ryo.

faid, for the damage aforesaid, them to Impound Part 2. driving, did contradict, difturb, and hinder, to the Chap. 15 grievous damage of him I and against the publick Peace.

The Jurors &c. That whereas I and B &c. 10. For the the fecond day, &c. at &c. by the command of a like. certain I. his Master, took and distrained fix Bullocks and four Heifers of divers colours, of the goods and chattels of a certain T. then and there found, and the herb of the foresaid I. depasturing, and trampling, and those to the Pound open - of F, would have driven, and there to remain, until by due forme of Law thence they should be delivered: That the foresaid T. late of &c. the tenth day &c. with force and armes &c. at, &c. upon the faid I. and B. fervants of the foresaid I. assault made, and the said Bullocks and Heifers so taken and distrained from the cu-Stody of the foresaid I. and B then and there unjustly took and rescued, against the Peace, &c.

The Jurors &c. That T. lately of &c. such day and year with force and armes; at F. forefaid 11. For rescue in the County foresaid, upon a certain W P in of goods. the Peace of God and the publick Peace then and there being, affault did make, and one braffe pan which the same WT by vertue of the Warrant of H. Knight, Sheriff of the County foresaid had arrested out of the possession and hands aforesaid, with force and armes foresaid, did take away and rescue, against the form &c. and against the publick Peace &c.

from Searchers.

The Jurors &c. That whereas A and B Searchers of Cloathes within the Parish of A. in the 12. For re- County aforesaid (such day and year) at A forescuing cloth said, in the County foresaid, by vertue of their Office foresaid, had taken and seized three Cloths defective, of the Goods and Chattels of a certain 7. And the Clothes foreiaid then and there in their custody were; yet a certain R. lately &c. the faid day and year, with force and armes &c.at A aforesaid in the County foresaid, the Clothes foresaid, from the custody of the foresaid R. and B. did take and carry away against the will of the foresaid A. and B. and against the form &c.

13. Forres feuing anoother man.

The Jurors, &c. That whereas E. Efquire, Sheriff of the County foresaid, &c. of a certaine Writ to the same Sheriff directed, by a certain W S. Esquire, one of the Justices of Peace, of the faid County, his Warrant bearing date (fuch day and year, &c.) had commanded a certain 7 &c. his knowne Bailiffs, that they should not omit for any liberty of the County foresaid, but they should take &c. lately, &c. if he should be found in the Bailiwick of the same Sheriff, and him safely keep, so that the same Sheriff should have the body of the said R before the Keepers of the Peace of the said County, and Justices of the Peace, to conserve assigne at the next general Sessions of the Peace, Tuelday next following after Low-Sunday to be held in the same County, wheresoever it shall happen to be held to answer the Keepers of the Liberties &c. of certain Trespasses and Contempts whereof indicted he was; by vertue of which Warrant, the same 7 and D such day

and yeer, at S foresaid, in the County foresaid, Part 2. did take the body of the foresaid R. and him R. Chap. 15 then and there in their fafe custody, had, untill after (viz.) the first day of F. and the year aboyesaid, then at S. aforesaid, in the County aforefaid, certain R. lately of &c. having gathered to them many other malefactors unknowne, with swords, bucklers, staves, iron of defence, and falcastor armed, unlawfully, riotously, and Riot. with force and armes themselves affembled, and upon the foreiaid I and D. then and there in the peace of God, and the publick peace being, affault did make, and the foresaid R with force and armes, and unlawfully out of their custodie. then and there rescued and took away against the wil of the same 7. and D. bailiffs aforesaid, as also the foresaid R. himself from the custody aforesaid of the said 7 and D. did rescue and escaped, against the will of the said F. and D. and against

The Jurors for the Lord Protecter &c. do pre- mans felte fent th. t one R B. late in the Court of the keepers and of au >-&c. of the Guild-Hall of the City of Norwich ther. before GB and GC Sherits of the City aforefaid, according to the use and custome of the City aforesaid; from the time whereof, there is no memory of man to the contrary, in the same used and approved, did bring against one R P. a certain plaint of a plea of trespalle upon the cale, and did crave processe thereupon to be made against the said R P. according to the use and custome of the City aforesaid; whereupon, according to the use and custome aforesaid, from the whole time aforesaid, in the same used and

the peace &c.

14. Forr 2-

approved, it was commanded by the same Sheriffs, to RG. one of the Serjeants at the Mace of the faid Sheriffs, and Minister of the Court aforesaid, that he should take the said R P. if hee were to be found within the City aforesaid, and should him safely keepe to an wer to the said RB. of the plea aforesaid; by vertue whereof, the faid R G afterwards, that is to fay, the tenth day of F. in the year &c. at M. aforesaid in the County of the City aforesaid, did take and arrest the faid R P. and him under his fafe custody had, and would, and did endeavor him to have kept to answer to the said R B. of the plea aforesaid; and the faid RG. the faid RP. under his custody, by vertue of the arrest aforesaid, as is aforefaid, having, and intending to keep him fafe, by vertue of the arrest aforesaid. The Jurors aforesaid doe further present, that the aforesaid R.P. and one WG. of N. in the County of the faid City of N. labourer, the same tenth day of F. in the year aforesaid, by force and arms at N aforesaid, in the County of the City aforesaid, upon the faid RG.did make an affault, and affray, and the faid R.P. did rescue himself from the custody of the said R G from the arrest aforesaid, and went at large whether he would; and the aforesaid WG. the aforesaid RP. from the custody of the said R G. from the arrest aforesaid, then and there did take and refcue, and fuffer him to go at large where he would, against the will of the faid R G. to the evil example of other like malefactors, and against the publick peace &c.

Part 2

Indictments for trespasses of all sorts, Chap 15 and for riotons trespasses.

The Jurors for the Lord Protector, upon their 15. For en-Oath present, that I B of &c. such day and year tring a close &c. with force and arms &c. at &c. the close of and taking a certain R D. containing by effectmation three away the acres of land, broke and entred, and the hedges and germin about the close aforesaid, then and there being and growing, unjustly took and carried away, and other things enormous to him hath done, to the grievous dammage of him R D and against the publick peace.

hedges, &c.

The Jurors &c. that A. of &c. fuch day and 16. Trefpass year & c. with force and arms & c.at A.in &c. the in a clofe, by close of a certain IB. Esq; called the Home eating the close, at A. aforesaid in the County aforesaid, grasse, &c. broke, and his herbs then and there growing, with certain beafts (viz.) with their kine and hoggrels, eat up, trampled and confumed to the grievous dammage of him the faid IB against the peace & c.

The Jurors &c. that &c.the land and soile of one TR yeoman in a certain place called B.at G. ploughing. aforefaid, with his plough digged and ploughed up, to the grievous &c. and against the peace &c.

The Jurors &c. that &c. with force &c. at L. 18. For car-&c. the close of one TM &c. he broke and en- rying away tred, and one cart load of hey, to the value of ten shillings of the goods and chattels of the aforesaid

T. then and there found, took and carried away Part 2. against the peace &c. Chap. 15

19. For trea-

The Jurors, &c. that &c. with force &c. the ding graffe, close of one IK. at D. in &c. called the low leafe, broke and entered, and his herbe there lately growing, with his feet walking, trampled, and confumed, and other things &c. then and there did, to &c. against the publick peace Stc.

20. R otous tr.t, affe.

The Jurors &c. that &c. with force and arms, &c. viz. with staves, swords and poniards, and other armes, as well invafive as defensive at B. aforelaid in &c. in the common high way, there themselves riotously and unlawfully attembled, gathered together, and then and there riotou fly and unlawfully upon one I G. Gent. then and there in the peace of God, and the publick peace being, then and there affault made, and him the faid I G then and there riotoufly and unlawfully beat, and evill intreated, fo that of his life he despaired, and other things enormous to him then and there &c. to &c. and against the peace, Sec.

21. The like

The Jurors &c. that IS of &c. fuch a day, &c. with force &c. viz. with swords, staves and knives, and other &c. in warlike manner arrayed at &c. themselves unlawfully, riotoufly, and routoufly affembled, and all together gathered, and upon TP. Gent. in the peace &c. atlault and affray made, and him then and there beat, wounded and evil intreated, so that his life &c.

The Jurors &c. that IS of &c. with force &c. Chap. 15 at D. &c. upon a certain & T. one of the Confta- 22. Affauls bles of the peace of the Lord Protector, of D. a- of a (onftaforesaid in the &c. then and there in the peace ble in the &c.and in execution of his office, then and there execution of assault made, and him then and there grievous- his office. ly did beat &c. so that &c. and other &c. to &c. and against the publick peace &c.

Part 2.

The Jurors &c. That I S of &c. fuch a day &c. 23. For pulat, &c.oneWether of black colour, of the goods of I ling fleep. C. of the value of five shillings, did flay and kill, and the skin of the same Wether, to the value of 12 d. of the goods and chattels of him the faid I C then at 3 &c. found &c. did take away, against the publick Peace, &c.

The Jurors &c. That I S of &c. with force, &c. 24. For taat &c. one Ewe of white colour, of the price of king away a 12 d. of the goods and chattels of a certain TS. Theep. then and there found, then and there did take, and drive away against the publick peace, &c.

The Jurors, &c. That T S lately of &c. fuch 25. For chaday and year, &c. with force and armes, at f a- fing Cattel, forelaid, in the County foresaid, the Close of a and impoun. certain T W did break and enter, and one hundred ding them. Ewes great with young, and ten beafts of the goods and chattels of the foresaid T W in the Close aforesaid being and feeding, did chase and trouble, and the aforesaid hundred Ewes and ten Beasts; then and there unjustly did impound, to the grieyous damage of him the faid T W, and against the peace, &c. The

Part 2.

The Jurors, &c. That A &c. such day and Chap.15 year, at F. foresaid in the County foresaid, the house and stable of a certain I Kat F foresaid in 26. For taking away a the County foresaid, then and there with force horfe. and armes &c. did break, and one Mare, of colour brown, of the Goods and chattels of him # K, value 5 1. then and there found, unjustly did take, lead away and chase, to the grievous damage of

27. For ftop. ping of water, & thereby turning it over a mans ground.

The Jurors &c. do present, That TR late of S. in the County of M. Yeoman, the day of &c. and at divers other dayes and times, as well before as after, at S. aforefaid in the County aforefaid, a certaine water courie did stop and turne, by means whereof, the faid water course did flow upon the foile and free hold of TF and GF. to the great dammage of them the faid IF and GF against the peace &c.

him the faid I K, and against the peace, &c.

28. For breaking of a house.

The Jurors, &c. That A. &c. the day &c. by force &c. at &c. one messuage with the appurtenances of IS. did-enter where no entry is given by the Law, contrary to the forme of the statute in such case made and provided, and aganst the publick peace &c.

The Jurors &c. that IS. of &c. such a day 29. For mi king kine.

and year, with force and arms &c. at &c. two Cowes of a certaine R.D. milked and &c. and a quart of milk of the value of one penny of the goods of the faid R D then and there found, took, and carried away against the peace, &c.

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The Jurors &c. do prefert, That C D. of &c. Chap. 15 the day and year &c. at Dale aforesaid, by force and arms in and upon AB &c. did make an 30. For an affault, and affray, and frim did beat, wound, and affault. evil intreat, and also blood of the same A B. did draw, forthat of his life he despaired, and other injuries to him did; to the great dammage of &c. and against the publick peace &c.

The Jurors for the keepers &c. do prefent, 31. For that IS. &c. the day, and year, and place &c. breaking by force and arms &c. the Park and close of P.VV ones park. Knight and Baronet did breake and enter, and his graffe there growing with his feet walking, did tread downe and confume, and other injuries to him, did to the great dammage of the faid PVP and against the publick peace &c.

The Jurors &c. do prefent, That A B. late of 32. For get-C. in the County of B. husbandman, the first sing of quiet day of May, in the year &c. at C. aforefaid in wood. the County aforefaid, with force and armes the Close of TF. did break and enter, and then and there two burdens of young quickwood, to the value of two shillings, did root up, take and carry away, and other harmes to the faid T F. then and there did, to the great dammage of the faid T; and against the peace, &c,

The Jurors do prefent, That VV F of D. in the County of L. Husbandman, and OF. late 33. For chaof D. aforefaid, in the County aforefaid Labo- with dose rery the day of &c. in the year &c. at D. aforefaid, in the County aforefaid, with force and arms

one dog called a Grey-hound, and another dog called a curre, who used to bite sheep, did keep, and then and there the foresaid dogs to chase and bire the sheepe of IT. there did encourage, that the said dogs by the said incouragement them and there four sheep of the said IT of the price of forty shillings, did chase, bite and sail to the great dammage of the said IT, and against the peace, &c.

34. For a treipade in corne.

The Jurors, &c. do present, That A B. late of 6. in the County of H. yeoman, the first day of May in the year &c., the Close of one I.S. at 4, in the County aforesaid, commonly called the Barton Close, with force and arms did break and enter, and the graffe, and the blade of whear of the faid I S, then and there growing, to the value of twenty shillings, with corrain oxen, and other cattel of the faid AB, then and there did depasture, tread down and confirme, and the ground and foile of the faid IS. then and there with a plough did turn up , whereby the faid I.S. all the profit and commodity of his faid ground did for a long time after lose, and other hurse to the faid I.S. dil to the great dammage of the faid I S. &c.

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31. For taking of a fack. The Juross, &c. do present. That IM late, of A in the County of L, aforesaid, labourer, the first day of May in the year &c. at VV. in the said County of L, the Mantion house of HN. with force and arms, did, enter, and then and there with force and arms, one lack to the value of fixpence, of the goods and chartels of the said HN, then and there found and being, unallawfully

lawfully and against the will of the said HAN did Part 2. take and carry away and to his own alcidid ton- Chapirs verifie fame so the great damage sec. and au gainst the peace, second and accordance on the carry and contract to but had a contract to the carry and carry an

The Juvers &c. de present that A B, late of 36. For haw.

G. in the County of L. alors aid; Gent, the first hing in corn day of Mr. in the year &c. and of resold in the County of L. aforesaid; the Close of GH with force and, armes didbresk and enter, and then and there in the said Close; (that is to say) into three acres thereof, in which the barley of the said GH, to the value of forty shillings was growing, at such time as the said barley was eared; did Mawk, and with this dogs commonly called Spanish; did hank, contrary to the forme of the Scatter, see and against the peace; &c.

The Juros, &c. do prefer that & B. late of 37. For ta-C. in the County of M. sfortfaid y coman, the king Doves. furtheday of May in the year 8th at L. in the County aforefaid with force and armes twenty Doves of the Dovehouse of DE, price ten faillings, with new and other engines, did take and carry away, by meanes whereof, the faid DE the flight of his doves did unterly lofe, and other harmes to him did, to the great dammage of the faid DE, and against the page 8th.

The Jurors, &c. do preferr, that A B. late 38. For felling trees & of C. in the County of M. Yeoman, the first day underwoods of May in the yeare &c. with force and arms, and carrythan is to fay, with swords, staves and knives, the ing it away. Close of R.S. at VV. did breaks and energy and

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Part 2 other graffe there growing to whe walte of twenty fillings &c. | then and there growings Chap.15 with certain cattel, (that is to fay) with Horfes, oxen, kine, hogs and other beafts, did depasture, tread downe and consume. And the wed to trees of the faid & S. that is to fay ten Oakes, to the value of thirty shillings, and underwoods, that is to fay , ten wain loads of underwoods, to the value of twenty shillings then Jand there growing, did fel, take, and carry away, and other hurt to him the faid & S. did tothe great dammage of the faid & S. and against the peace, &c. .

39. Fortaking away cattel &c.

The Jurors &c. do prefent, that A B. late of C. in the County of R. Yeoman, the day of &c. in the year &c. with force and armes the close of SP. at C. aforesaid, in the County aforesaid, did break, and eight sheep of the said & P. price forry hillings, then and there found andid rake and drive away, and the grafs of the faid S P to the value of twenty stillings then and there growing continuance with certain-cattely that is to fay, with oxen, horfes, and other cartel did, eat, tread down and confume; and the trespass aforesaid, as to the eating, treading down and spoiling the graffe aforelaid, from the faid day of &c. aforefaid in the yeare aforesaid, until the day of the taking of this inquest, at divers dayes and times did continue, and other harmes to him did, to the great dammage of the faid S. P. and against the peace,

The Jurors &c. do present, That whereas R. B. Gent. the fifteenth day of July in the year of OME

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ourid ord God, 1640 and long before, and always Part 2. hitherto was feifed in his demesne as of fee, of Chap.15 and in one Meffuage, and twenty acres of land fix acres of pasture &c. with the appurtenances in 40. For M. in the County of L. to which Tenements, breaking & the laid R B. the laid fifteenth day of July, in digging the the years 1649! aforelaid, and also long before, foile where and alwaies after, until this time hath had, and hath comnow of right ought to have common of pasture mon of paevery year, and at all times of the year, with all Rure. and all manner of cattel in four hundred acres of pasture called the Hey in M. aforesaid, in the County aforesaid. Nevertheles AB. late of &c. R (D &c. and E F knowing the premises to bee true, contriving and deviling how to difinherit the faid R B. of B. of his common a- Ryon foresaid, the said fifteenth day of July in the year aforefaid at M. aforefaid, in the Common aforefaid with force and armes &c. that is to fay, with spades, staves, and other weapons, did riotously Ryot. unite, and unlawfully affemble themselves together, with intent to diffurbe the peace of the Keepers &c. and so being united and affembled, then and there with force and armes, and riotously into the said foure hundred acres of pasture did breake and enter, with intent to digge the soile of the said foure hundred acres of patture aforesaid, and the first day of fune in the yeare sforesaid, the soile of the foure hundred acres aforesaid, did digge and turne up; by meanes whereof, the faid R B his Common of pasture aforesaid, in the said foure hundred acres of pasture, from the said first day of F. in the year 1649. aforelaid, until the day of the taking of this inquest, hath loft, M 3

Part 2 and other harm to him did, to his great damage.

the Junors &c. do present, That A Bos C in the gound of the County of E Tinker, the day of — in the year &c. in a certaine place at C forestid in the County aforesaid, called M. with some and arms, in and upon one D T of C aforesaid in the County aforesaid Ysoman, in the Peace of God and the Keepers, see being did make an assault, and then and there of his malice forethought, with the nailes and the singers of the said A B, the eyes of the said D T did dig and pull out, a gainst the Peace, &c.

Imprison-

of Ain the Spunty aforesaid Yeoman, the tenth day of April in the year of our Lord God 1652.

Link the faid County of Heref. with force and airmes, in and upon P. E. in the peace of God and Ecobeing, did make an assault, and him the said DE, then and there with force and armes did rake, imprison and evil intreat, and the said DE fo there in prison a long time, that is to say, by the space of tendayes then next following, contrary to the Law and custome of the Commonwealth of England, did detain and keep, and on their harms to him did &c. to the great damage, &coand against the peace &c.

Battery, and inf G in the County aforefaid Yeoman, the twenmain. I tieth day of May, in the year &c. about four of the clock in the afternoon of the fame day, at G aforefaid, in the County of Manhampton aforeb

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faid in the High-way there, of malice of the faid Part z. AB forethought, for ohe 7 7 in the Peace of Chap. 15 God, and the Keepers of the Liberty of England &c. being, and upon the faid High-way. about his necessary bufmelle labouring and going, did lay wait, with intention feloniously the faid IF tomain; and then and there with force and armes, &c. in and upon the faid # in the peace of God &c. being, did make an affault, and him the faid T f then and there with force and armes & c. did ftrike, bear, wound and evil intreat, to that of his life he did defpair; & that the faid AB then and there with a fword, which the faid A B in his right hand then and there had and held, the foreland T & upon his left hand feloniously did ftrike, and gave unto the faid T 4 then and there upon the faid left hand of the faid T. one great wound, by which the finewes and veins of two fingers, that is to fay, of the least finger and the next finger unto the faid least finger are fo mortified and reftrained, that the faid I'f the firengthand use of the faid fingers hath wholly loft, and fo the faid A B the faid T 7 felonioufly, and of his malice forethought, did marme in manner and forme aforesaid, against the Peace &c.

The Jurors, &c. do present, That A B late of C, in the County of H aforefaid Gent, the 10 day of Fune, 1653, at L in the County afore- ment of a faid, with force and armes, that is to fay, with mans force two ds, flaves and other weapons, as well invafive as detenfive, &c. in and upon IK and LM hisfervice. fervants of N O, did make an affault, and the faid FK and LM, contrary to the Law and Custome M 4

44. For falfe Imprison-

Custom of Englind, did imprison, and by the space of four dayes then next following in prison did keep and detain: and that the said N O the service of his servants aforesaid for a great time, that is to say, for the space of one month then next following did lose, and other harmes to him did, to his great damage, and against the peace, &c.

45. For taking Conies in a free Warren in the night.

The Jurors &c. That A B late of C in the County of S Laborer, —day of — in the year of our Lord 1656. with force and armes; that is to lay, with staves, Bills, Bowes and Arrowes, and other Weapons, as well offensive as desensive, the Park or free Warren of D E at C forelaid, in the County forelaid, about the hour of ten of the Clock in the night of the same day, did break and enter, and in the same Park or free Warren, with Harriers and Purse-ners without the License of the laid D E did hunt, and forty Conies to the value of 31, 44, of the Goods and Chattels of the laid D E then and there found, did take and carry away, to the great damage of the said D E, and against the Peace.

# Indictments for hunting in Parks, &c.

46. For hung ting in a Park in the, night with d. gs,&c.

The Jurors, &c. That A B of L in the County of S forelaid; G D of L forelaid, in the County aforelaid Gent, and RB of L forelaid. Yearman, the — day of J, in the year &c. about the hour of twelve in the night of the lame day, having gotten unto them many other Malefactors, diffur best of the Peace, to the Jurors unknowne, with

with force , that is to fay, with staves strength- Part 2. ned with iron, Bowes and Arrowes, Swords and Chap. 15 Daggers, and other weapons, as well invasive as defensive, the Close and Park of FG Esquire, at H in the faid County of 3, unjustly did break and enter, and the Deer of the faid F G then and there in the faid Park couchant and feeding with three Grey-hounds and a Buck-stall, which in the faid Park they held injuriously, did hunt and chase, and one Buck, then and there with the Greyhounds aforefaid, riotoully did take, kill Ryot. and carry away against the peace, and contrary to the form of the Statute, &c.

The Jurors, &c. That A of &c. and B &c. 47. For hunabout the tenth hour in the night, having gather-ting in a ed to them very many other Malefactors and Perturbers unknowne, &c. the peace of the faid Lord the King, with force and armes, viz. &c. the Forrest &c. in the County a foresaid, unjustly did break and enter, and the Does of him our Lord the King, then and there in the Forrest aforesaid lodging and feeding, with certaine Dogs called Grey hounds, unjustly did hunt and chase, and one Do then and there being by the foresaid Dogs Ryot riotoufly and unjuftly did kill and carry away, against the form of the Statute,&c.

The Jurors, &c. That TT and B &c. (as 48. The like above) of the publick peace, the Close and Park inclosed with Pale, of a certain T at &c. and the Does of him T then and there in the Park forefaid, to the grievous damage of him T &c. with certain dogs, and one Net called a Buckstall &c. and one Doe, &c. with the Net aforesaid riotou-Dy, & c. India-

# Indictments for unlawful Games.

with lette; that is to lav.

49. For keep ing and ufing a honse of unlawful Games.

The Jurors, &c. That A. of &c. in the Counts ty &c. Victular, the fecond day of F in the year Sec. 1692, and continually after the faid 2 day of Fine in the year aforefaid, until the twentieth day of the Month of F. in the year dforefaid, at & forefaid in the County forefaid a common Bowl ing-Alley for his own proper gain, and then and there to play with Bowles unlawfully did keep and maintain, contrary to the form of the Starute, &c. And that F&c. of &c. in the County forefaid, and three other persons unknowne, the faid fecond day of F. in the year aforefaid, the faid common Alley did frequent, and then and there with Bowls unlawfully at Bowls did play, contrary to the form of the Statute aforefaid, and against the Peace Sec.

to. For keeping unlawful Games.

The Jurors &c. that A of &c. in &c. Victualler, the and &c. in the year &c. 1652. and communally afterwards, until the twentieth day of &c. in the year aforefaid, at K. forefaid, in the County forefaid, a common house of Carding, Dicing and Table-playing, and for the proper gain and profit of the faid A unlawfully hath held, kept, and maintained, contrary to the Statute in that case made and provided; and that the faid A. the faid third day of S in the year forefaid, and at divers other daics afterwards at K. forefaid, in his house forefaid, the forefaid unlawful Games of Carding, Dicing and Table-play-

playing, hath had, kept, exercised, used, suffe- Part 2 red, allowed and maintained, contrary to the Chap. 15 forme of the Statute, &c. and against the Peace,&cc.

The Juross, &c. That & D of &c. Inn-halder, The For fuch day and year, and divers other dayes and keeping times, as well before as after, at E forefaid, in house of manufactured the County forelaid, a common house of Play, Games. for his gain, profit and advantage proper, unlawfully did keep and maintain and divers honest perfons of the faid commonwealth to his Manfion afsembling and coming to divers Games and Playes unlawfully, viz. at Dice, Cards and Tables, did permit to play, to the evil example of others. and against the form &c. and Peace &c.

The Jurors for the Keepers &cc. do prefent, 52 For That AB of G in the County of N Inn-hol- maintaining der, the tenth day of F in the year of our Lord, unlawful 1650. and many other dayes and times, as well Games in before as afters at & forefaid, in the County fore- ones house. faid, for his own proper lucre, advantage, and livelihood, did keep and maintain a common house for unlawful sports, and the day and yeer foresaid, did suffer certain Servants, Laborers, Artificers, Husbandmen and other men unknowne, to exercise themselves, and play at unlawful Games (that is &c.) at Cards, Dice and Tables in his house aforefaid, for his lucre, advantage and livelihood aforefaid, against the form of a Statute, in fuch case lavely fer forth and provided, and against the publick prace, &c.

Part 2 - find the halosson Chap ty all or allow then

# Indictments for keeping a Bandy-bouse.

52 For keeping a Brothel house.

The Jurors, &c. that \$\mathcal{f}\$ larely, &c. the day and year &c. and divers times, as well before as after, with force and armes at T foresaid in the County foresaid, did keep and maintain a Stewes house or Bawdy-house, to the grievous annoyance of the people of this Commonwealth, against the form &c. and against the peace, &c.

55. For the like.

The Jurors, &c. That A of &c. In &c. Victualler, such day &c. at T &c. hath held and kept in his dwelling house there, a common Bawdy-house, and suffered many persons suspected, and of ill behaviour and fame, to have carnal knowledge with Whores, to the great grievance of all the Inhabitants there, and to the evil example of others there dwelling, and against the Peace, &c.

#### Indictments for a Barretor.

56.A Barte-

The Jurors &c. That &c. and divers other dayes and times, as well before as after, at D aforesaid in the County aforesaid, or elsewhere in the County foresaid was, and yet is a common Barretor, Calumniator, Perturber of the publick peace, and a sower of strifes and discords betwixt the

the good people of this Commwealth, and op- part 2 preflors of his neighbors, so that divers strifes and Chap 15 controversies betwixt the faid people he hath moved and raised, to the great disturbance of them, to the evil example of others, against the publick peace,&c.

The Jurors, &c. That A of &c. in the County &c inthe year &c. at C foresaid, in the 17. For the County foresaid was, and yet is a common Bar-like. retor, and diffurber of the Peace of the Commonwealth, a daily, and open; common and turbulent railer, fighter, a fower of discord among his neighbors, so that he hath moved, procured, and ftirred up many contentions and quarrels, then and there, and elsewhere in the faid County of & among divers of the people of this Nation ; to the great disturbance of the peace, and against the Peace.

# An Indictment for Conspiracy.

The Jurors, &c. That A &c. and G &c. in 58 Confpithe County of &c. Bakers, the day &c. in the racy of Bayeare &c. at 7 aforesaid, in the County of L a- kers touchforesaid, did meet together and conspire, and mu-ing making tually between themselves agree, that a penny of Bread. loaf of clean Wheat (by them or any of them, from thenceforth to be made and fold) should weigh but two pound and fix ounces of Troy weight, what price foever hereafter the price of a Quarter of Wheat should be, in contempt of the Keepers of the Liberties of England, and the great grievance

Part 2. grievance of the poore people of the Common-Chap. 15 in that cale made and provided.

# Indictments for Inmates.

The Jurors &c. that A. of &c. Taylor, the day

5. For In. and year, &c. and being owner of a Counge, then
mates. in his occupation at C. in &c. did place one D E
an innate in the Counge aforefaid, and the faid
E. with the faid A. iff the counge did there in
his it from the faid wentieth of F. aforefaid,
by the fpace of two months, then near following; and the faid A. did permit and volumearily
fuff, the faid E. an Innate as aforefaid; with
him the faid A. od welf by the fpace of two months

the peace &c.

# Indictments for refusing to watch.

contrary to the form of the flat: 820 and against

60. Refusing

The Jurors &c. That A. of &c. in the County &c in the year &c. at Lin the lad County, was by the Conflable of the towns of L. a forelaid, commanded to keep watch together with other in the laid Towns from Sunne letting of the laid first day, until the Sume riging of the feeled day of the lame Month of F. next following, according to the forme of the Stanne in that case made and provided. Neverthelesse, the said A. the Lawes of this nation not regarding, at Lafore-said in the County aforelaid, the Reday of J. in the

the year aforesaid to do and keep watch there did Part 2. altogether refule and deny, and made default, Chap, 15 contrary to the forme of the Statute aforefaid; by reason whereof, the wareh within the said Towne of L. was not kept, to the danger of the people of the Common-wealth, and against the peace,

# Indictments for a turbulent person.

The Jurors &c. that H. lately &c. fuch day 61. Common and year with force and armes at B. aforefaid, breaters of in the County aforefaid, was, and else where in the peace. the County aforesaid is, and for many yeares by palt hath been a common perturber of the publick peace, and an oppreflor of very many of his neighbours, and of other the people of this Commonwealth, in the County aforesaid, as also a common malefactor, riotor, fighter, and lower of strife and discord betwirt his neighbours aforesaid to the great harm, grievance and perturbance of this common wealth in the County aforelaid, against the publick peace, &c.

# Indictments for fulfe weights and mea-

The Jurors &c. that VV. lately &c. fuch day and years, &c. at & aforesaid in the County 62. For ma-aforesaid one broad cloth lifted, called a broad cloth above lifted, white . containing in length thirtie 28 yards. and one yards, fraudulently and deceitfully then and there did make and work, to the great

Part 2

contempt &c. and against the forme &c.

Chap.15 Like.

The Jurors &c. that A. lately &c. Clothier, 63. For the fuch day and year at VV. &c. one broad cloth called a broad lifted white cloth, wanting one yard of its due measure then and there did make and work, to the contempt &c. and against the forme &c.

64. For ma king fmall bread.

The Jurors, &c. That T lately & c. fuch a day and year at P, foresaid in the County aforesaid, his loaves every of them of the price of one penny of whear weighing but twelve ounces, to be fold to the people of this common wealth, fraudently, and deceirfully then and there did make, and to the great grievance of the people of this commonwealth, and against the forme of the Statute -8cc.

65. For felling with falle weights.

The Jurors &c. doe prefent, that T. of &c. in the County of &c. Grocer &c. in the years, &c. at N. aforefaid, in the County &c. harh had and used one pound weight " being falle and defective, and not agreeing in weight with the standerd and weight of the Keepers &c. for the weighing within this Commonwealth of England in such case ordained, and in the custody of the Maior of the City aforesaid, at N. aforesaid in the County of the City foresaid, according to the forme of the Statute of this Common-wealth, remaining; and by the fame weight, the faid day and year at N. aforefaid in the County of the City aforesaid, falsely and deceitfully did weigh, fel and utter divers wares weighable to divers of the people of this Common-wealth, to the great deceir th

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deceir of this people &c. and in an ill example of Part 2.
other like malefactors, and against the forme of Chap. 15
divers statutes in like case lately made and provided.

The Jurors &c. that A. &c. the day and 66. For selyeare &c. and divers other dayes and times, as ling beere
well before as after, at C. aforesaid, did sell and
by unlawful
utter Beere and Ale to divers good and faithfull
people of the keepers &c. by measures unlawful
and not signed, and wanting in measure, in contempt &c. and against the form &c.

## Indictments for officers.

The Jurors &c. that T.C. lately of &c. such a Constable day and year, being Constable of the peace of the for not puparish of A. in the County aforesaid, at aforesaid, nishing divers rogues and sturdy beggars, through his Rogues. liberty unpunished permitted to passe, to the e-vill example of other officers, against the publick peace &c. and against the form &c.

The Jurors &c. That A. of &c. such day and yeare &c. being Constable of the peace at D. 68. For not aforesaid, in the County aforesaid, his office fore-faid did neglect, and presented not the names of the recusants within his parish foresaid at the general Session of the peace in the County aforesaid held, to the evil example &c. and against the peace &c. and against the form of the statute &c.

The Jurors &c. that B R &c. being tithing man

of VV. aforefaid, in the &c. fuch day and year, would not make inquiry in places suspected within his Tithing, for certain men unknown, felons 69. For not of the faid Common wealth, who for certaine felonies and robberies by them done, profecuted, were upon hue and cry, nor the same hue and cry would follow from parish to parish, according to the form of the statute thereupon fet forth; but in exerciting his office, flackly did bear himfelf, to the contempt &c. and against the forme &c. -

following hue & cry.

70. For not aid og a Conttable.

The Jurors &c. That A. of &c. such day and year at B. foresaid in the County foresaid, did contemne and refuse to aid R. then Constable of the peace there to conserve though often requested he was by the foresaid R. to the evil example of others, and against the peace, Sic.

Indictments for Hawking and Hants

71. Keepers oi Hound .

The Jurors &c. that &c. with force and arms &c.a. B. forelaid in the County aforelaid, fix hounds valled Beagles have kept, and have hunted; and the forelaid I B. I D. and G H. have not, nor hath any of them Lands or fenements of the yearly value of forty faillings, mor are, nor is either of them a spiritual man, against the forme of the Harute &c.

72. For tra-The Jurors &c. that A. of &c. in the Counci g H res ty Wo. fuch day and year We. at C. aforelaid in

the County forefaid, the fnow being and lying Part 2. then and there upon the ground, one Hare in the Chap. 19 fnow, with one dog called a erc. did find, trace and course deferoy and kil, contrary to the form of the ftatute &c.

#### Indictments for Booting.

The Jurors &c. that A .coc, such day and 72. For year at L. in the County aforefaid, divers pige. thooting, ons and other fowls then and there with certain bowes did shoot, as also certaine nets for the taking of pigeons then and there did fet, and foure pigeons of the value of foure pence, then and there with their Bowes and ness unlawfully did kil, against the formere.

The Jurors &c. that &c. with a certaine 74. For the Gun called an hand Gun , charged with powder like. and hail thot, upon three pigeons then at F. forefaid in the County foresaid, he shot, and it did discharge, and the foresaid three pigeons then and there did kill, against the forme &c. and against the peace of c.

# Indictments for disturbing a Minister.

The Jurors &c. That A. of &c. in the coun. 75. Diffurd. ty Gc. at C. Gc. in the county Gc. in the Pa- ing a prod. rish Church (c. of his own power and authority &c. by these open and contemptuous words following by him the faid A. then and there in the Church aforeszid , spoken &c. viz. Come downe thou prating knave, wc. maliciously and

unlawfully did disquiet T & of &c. Vicar of the parish Church aforesaid in his publick Sermon and preaching, which the faid T S. then and there in the Church aforesaid made and pronounced, and other harms to the faid T S. did, contrary to the form of the statute &c. and against the peace &c.

Indictments against Rogues and Va-Tabonds.

The Jurors &c. that IS &c. of &c. at 76. Rogues, M. in the County a orelaid found and taken, were by A B. Constable of the Hundred of L. and by TP. and FN Constable of the Towne aforesaid, themselves then and there idlely, and ill bearing, and vagrant, against the form of the statute, in such case thereupon set forth and provided, and against the peace &c.

77. For a vragrant , going under a Soldier.

The Jurors &c. that A. of &c. Labourer, being an idle person, and intending craftily, the name of fallely and feloniously to deceive and defraud the keepers of the libertie of England &c. and the people of this Common-wealth, the day &c. in the year (%. one thousand fix hundred fiftie three, and at divers other dayes and times, as wel before as after at G. and at divers other places within the faid County, did as a Souldier, wander, and the faid tenth day of M. in the yeare &c. at G. aforesaid, did feloniously counterfeit and invent a certaine Testimoniall in the name of one W H. fallely by the faid tefilmony supposing, that the said A. landed at Dover

Dower in the County &c. the day of &c. and was Part 2. allowed by the faid W to travel to the place where chap.15 he was pressed, or where he was born; whereas in truth the faid A B never landed at &c. and whereas&c. A B was never allowed by the laid W to travel to the place where he was preiled, &c. contrary to the form of the Statute &c. and against the peace, &c.

## An Indictment for keeping idle persons and Vagabonds in their houses, &c.

The Jurors, &c. That A of &c. in &c. Vi-Aualler, at C aforesaid, the day and year &c. and continually after, until the day of the taking of this Inquest, hath received harboured, and supported divers Vagabonds, Whores and other idle and suspected persons of evil conversation, and doth continually keep evil rule and government in his house, to the great annulance and diffurbance of his Neighbors, and contrary to the form of divers Statutes, and against the Peace, &c.

78.

# An Indictment for Forgery.

The Jurors &c. That &c. fuch day and year, 79 Porgery. &c. at &c. of his own mind, false imagination, conspiracy and covin, a certain false deed; viz a certain Indenture, by which a certain T should bargain and fell all those Lands and Tenements. called &c. with the appurtenances &c. in T forefaid in the County foresaid, to a certain I wit-

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and the same Indenture then and there did utter, publish and cause to be read, and in evidence did shew, to moletta ditturb, and destroy the estate, possession, title and interest of the foresaid T. in the Lands and Tenements foresaid, by which the same T in this possession &c. with the Appurtenances, was many wayes very much grieved and vexed, is to the contempt of the Laws &c. and the no small damage and grievance of him T, and a gainst the form of the Statute, &c.

## An Indictment for Perjury.

so. Perjury.

The Jurars &c. do present, That GL of B in the County foresaid &c. before AS, RG and RL Gent. Commissioners, by vertue of aWrit of Commission of the Keepers &c. to the said A Gc. and RL and one E M directed, and out of the Court of the &c. of the High Court of Chancery, at W. in the County of M before that issuing for the examination of certain witnesses, as well on the part of one ET Esquire, as of the part of M D widow, and other Defendants in a certain matter or cause between them the said E and M. and others personally constituted, and then and there being Witnesses, brought by the faid T Cand others, to testifie and depose in the saule atorelaid on the part of the faid T. and being fworn by the Commissioner toresaid by verrue of the faid Commission to say the truth upon Articles and Interrogatories to the faid Commission annexed, and to him by the faid Commissioners upon their Oathes aforefaid interrogated, ot and

and upon certain Articles, or &c. to the faid Part 2. Commission annexed, and on the part of the Chap. 15 Defendants to the faid Commissioners shewne, the said G the same twentieth day of S. in the year &c. at B aforesaid shewne, did lay and affirm, depose and answer upon his Oath, as in these words following; that is to say, That he the faid deponent &c. and so the whole deposition,&c. as by the faid deposition of the faid G. amongst other things by the said Commissioners, by vertue of the said Commission taken, and to the faid High Court of Chancery certifying and fent, and there remaining upon Record, more at large appeareth; where in deed and truth, &c. and so the Jurors foresaid do say, that the foresaid D the faid 21 day at S in the year &c. at b forcsaid in the County foresaid, before the said A S, RG and R.L Commissioners of the said Keepers &c. 10 as aforesaid being, did commit voluntary, and corrupt perjury, voluntarily, and corruptly, against the form of the Statute, in such case lately made and provided, and against the publick peace, &c.

An Indictment for killing Meat in the Lent.

The Jurors &c. That E &c. such day and year, being in the time of Lent, at L foresaid did kill three Calves, and the flesh of them provenient then and there did sel to divers honest persons of this Commonwealth, having no lawful Li-

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Part 2. cense at that time so to do, against the form &c. Chap. 15 and against the Peace &c.

# Indictments for negligent keeping of fire.

The Jurors &c. That whereas by the Law &c. hitherto used and approved, every man and woman of the faid &c. is bound to keep their fire fafe and secure, left by default of the due and fafe keeping of fuch fire any damage should happen to any of his or her other neighbors. Nevertheless one A B of &c. in the County &c. such day and year was seized of a Messuage in the foresaid Town of C in his Demesne as of Lee, in which Meffuage the faid A then and there was dwelling, which A then and there did so negligently and carelefly keep his fire, that for want of due keeping of his fire, the goods and chattels of TF. that is to fay, ten loads of Timber of the faid T F at Caforesaid, in the County foresaid, to the value of ten pound, in the house of the said TF then being, and the house and the stable of the faid T F to the faid Messuage adjoining, then and there was burned, to the great damage of the faid T. F, and contrary to the custome, &c.

# An Indictment for not paying Wages.

The Jurors &c. That A &c. Clothier (such day and year) at W. foresaid, in the County foresaid, certain Salary, taxed by the Justices of the said County for the Peace, &c. of this County of at the general Sessions of the peace of the County foresaid,

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forefaid, held at G, the Tuelday next after Low Part 2. Sunday now last past, to his Weavers hash not Chap.15 given nor paid, but thereof wilfully default hath made, to the contempt of the Lawes, and great impoverishment of his Weavers forelaid, and against the form of the Statute.

# Indictments for Deceit.

The Juross &c. That I of &c. in the County &c. by colour and pretence of a certain Processe, under a Seal of, &c. to one # L directed, did make composition with the said I L, and then and there by colour and pretence of the said Process did of the said IL the sum of 10 1. in mony, numbred for himfelf, without any order or consent of any Court, or &c. unlawfully obtaine and take, contrary to the form of the Statute in that case &c, the said I B not being Clerk of any Court &c.

The Jurors &c. That A of &c imagining and \$5. For the devising with himself how he might unlawfully like. obtain and get into his hands, the goods chattels and Jewels of other persons for the maintenance of his unthrifty kind of living, then and there falsely and deceitfully did write and counterfeit a Letter in the name of one R W.to one F B being the special friend of the said RW for the getting of three yards of woollen cloth, to the value of forty shillings of the aforesaid F B: and the foresaid F B afterwards, that is to say, the third day &c. at M foresaid in the County foresaid, by colour and meanes of the faid counterfeit

Letter

Letter, made in the name of the faid R W as aforesaid, three yards of woollen cloth to the value
of &c. of the goods and chattels of the said F B,
from the said F B fally and deceitfully did obtain and get into the hands and possession of the
said A B, contrary to the form of the Statute &c.
and against the peace &c.

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The said A B did then and there falsely and fraudulently imagine & invent a false token in the name of one R W to one F B being his special friend and samiliar, for the getting of twenty shillings in money, numbred from the said F B; then and there by colour of the said false Token, made in the name of the said R W, the said twenty shillings salsely and deceitfully did obtain. Ut supra.

### Indictments for bewitching.

The Jurors &c. That DP late of &c. Spinster the wife of FP of N aforesaid in the County foresaid Baker, not having God before her eyes, but being seduced by the instigation of the Divel, the twentieth day of A. in the year &c. and divers other dayes and times as well before as after, at N foresaid in the County &c. certain divellish acts called Inchantments, Witchcrasts, Charmes and Sorceries in and upon one I K of N foresaid in the County of the City foresaid Baker, wickedly, divellishly, seloniously, and of her malice before thought did practice & exercise, wherby the said I K the day foresaid, and divers other daies and times, as well before as after, at N foresaid, in

the County, &c. was greatly tormented in his bo- Part 2. dy, and did languish and became lame, against the Chap. 15 publick peace, and against the form of the Statute, in such case lately made and provided.

The Jurors &c. That (as before, until, in and 88. Against upon) ten loaves of Bread, to the value of 12 d of a Witch for bewitching the goods and chattels of W R of N aforefaid in Bread. the &cc. Baker, wickedly, divellishly, and of her malice before rhought of, did practice and exercise; by the reason of the practicing of which said divelifa Arts, ten loaves of Bread of the faid W R, then and there were greatly hurt, against the publick peace, and against the form &c.

#### Indistments for stopping and turning High-wayes and Waters.

The Jurors &c do present, That whereas with- 90. For stop. in the Village of Sinthe County of Di in a cer- ping a comtain place called Alderbury, there is, and by all mon Highthe time whereof the memory of man is not to the contrary, there hath been a common Kings High way, leading from the Town of Hin the County aforesaid, unto the Towne and Marker of O in the faid County, from the faid Town of H, unto the said Town of O, by all the said time, as well to ride as go , and with their Carts and Carriages to passe, as also their Canel to drive, and from thence back againe unto the same Town at all times of the yeare, at their will and pleasure. Neverthelesse one B. H. lane of S aforesaid in the Councy aforesaid Equire, for his owne private gaine and commo-

commodity, devising and intending to stop up the faid way, the first day of May, in the year ( 1654. and at divers times, as well before as after, with force and arms &c. at S. aforesaid, in the Countie aforesaid, a certain ditch overthwart the faid common high-way, on that part of the faid high-way which extendeth between the Parishes of O and A. and the same with hedges and gares hath thut up and inclosed, and keepeth the same so inclosed; so that the people cannot have and enjoy the faid way, either to ride, or goe, or with their carts and carriages, or to drive their cattell in such manner as they were wont to have and enjoy the same, to the great disturbance of the people, and against the peace, &c.

elofing of a high way.

The Jurors &c. do present, That AB late of C, in the Countie of E. Gentleman, the first day of May, in the year &c. part of the common high-way leading from W unto S. in the Countie aforesaid, that is to say, one rood of Land, parcell of the said high-way with heage did inclose and shut up, and the same way so inclosed from the aforesaid first day of May untill this day, into patture did convert, and doth keep; to the great dammage and annoyance of all the people of this Na ion, dwelling neere to the same, whose right it is to goe that way, against the peace, &c.

ping up a high way. is seiled in his demess as of see, of and in two acres

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of land with the appurtenances in F. in the Part 2 County of K. And that he and all those whose Chap 15 estate the said GH. of and in the Tenements aforesaid with the appurtenances have had, and ought to have, by all the time whereof the memory of man is not to the contrary, a certain way in 7. aforesaid, as well on horse back as on foot, and with all and all manner of Carts and Carriages from the Tenements aforesaid, through and over a certain parcel of land in F. foresaid in the County aforesaid, now in the occupation of O P. unto the Kings high-way, in 7. forefaid, called &c, and to drive and redrive all and all manner of cattel from the tenements aforesaid, through and over the said parcell of Land in the occupation of the said O P. unto the foresaid Kings High-way, and from thence to the aforesaid Tenements with the Appurtenances at all times, at his and their plealure.

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Neverthelesse, one R C. late of M. in the Countie of Lancifter husbandman, and Fane C. late of M. aforesaid in the County aforesaid Spinster, wife of the said R C the first day of May in the yeare of &c. one thousand fix hundred fiftie and foure at S. aforesaid, in the Countie aforesaid, by the direction and command of R H. of S. in the faid County Esq; with force and armes, in & upon the faid G H. and T H. the servants of the said G H in the peace of God &c. then being, and in and through the faid way about their necessary businesse labouring and going, did make an assault, and a certain gate at the entrance into the faid

parcel of land in the possession of the faid GH. overthwart the way aforefaid, did make, crect . and keepe; by means whereof, the faid way is wholly stopped up. So that he the forefaid GH cannot have nor make use of the said way in manner aforefaid, nor with his carts and carriages, nor drive nor redrive his cattel, to the great hurr of the Free-hold of the faid G H. and to the great dammage of the faild GH. and against the peace . &c.

ping up an ufual way.

The Jurors &c. do prefent, That & S. late of 5. In the County of S. Yeoman the eighteenth day of 5. in the year of our Lord 1654. by force 92. For frop and armes &c. a common foot part, leading from a certain place in S. called Bonds Green, to and towards the parish Church of S. aforefaid, with a certain dike and hedge did ftop up so that the Foot-men could not patie by the faid path, and that the faid path, from the time whereof there is no memory of man; hath been used to be a common path-way, until the faid S'S. hath Stopped up the same in forme aforesaid, and hath unjuttly inclosed the same with a dike and hedge aforesaid, against the publick peace, and to the great annoyance of the people of this Nation. BCC.

> The Jurors &c. do prefent, That M'B. late of A.in the County of D. Gent the first day of May in the year of & c.at Afforefaid in the faid County of D. a certaine usual way, leading from the Wansion house of FG. Gent. into the Kings high

93. For the like.

high-way, lying and being betweene M B. and Part 2. FG. unjustly and unlawfully did stop up, and Chap. 15 would not fuffer the faid I G. and his fervants to have, use and enjoy the said usual way as they ought, and as from the time, the memory wherof is not to the contrary, they have used to doe, but hindered and with force and armes stil doth hinder them, as aforesaid, to the great damage of the faid IG. and against the peace & c.

The Jurors &c. that whereas a certain com-

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mon way from the time the contrary of which is not to the memory of man, was in a certain place called N. in the County foresaid, leading to a 94. For the certain Market Towne, called A. in the County ing a highaforesaid, from the Market Town called B. in the way. County aforesaid, by which way, the people of this Common wealth, from the time which the memory of man is not hitherto used, were, and have accustomed to passe and travel with their Carts, Waines and other carriages from the town of A. foresaid in the County foresaid; That a certain A B. of &c.the 10. day &c. with force and arms &c. at &c.the way foresaid in N. fores, in the County forf, did ftop up and obstruct, and that so stopped up and obstructed yet holderh, by which the people &c. forel by the way foref. with their carts,

waines and carriages cannot pals and travel to the grievous damage, difturbance, & common nulance of the people of &c. and against the peace &c.

The Jurors &c. that I. lately &c. fuch day and yeare at T. aforesaid in the County of For inforefaid, a certaine piece of the high-way, neere cloting an his manbon house, containing &c. with an hedg high-way.

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and ditch, then and there inclosed, and ftopped up and the same piece of the high-way in several doth hold and keep, and for a garden ufeth, to the no small dammage of the people of this Commonwealth by that way paffing against the peace. &c.

96. For ftopping a footpath.

The Jurors &c. that &c. fuch day and yeare a certain foot-path, leading from B. towards W. in and by a certaine Meadow called S.in T. aforefaid, in the County fores. unjustly did obstruct and inclose, so that the people of this common-wealth by that foot-path cannot go and return, to the great grievance and nusance of the people of the said common-wealth in these parts abiding, and against the &c.

97. For flopway.

The Jurors &c. that E. &c.a certain common ping a horse horse way of the Kings, leading from B. aforesaid in the County aforef. towards C. in and upon a certain bank or a wall contiguously adjacent to a certain &c.called S. in T. aforefaid in the County foresaid, unjustly did obstruct and inclose, so that the lieges &c. by that horseway &c. as above in the last before.

98. For ftoping a fink in a Marker Towne.

The Jurors &c. do prefent, That I &c. fuch a day and year with force of arms &c.ar C. aforefaid in the County forela certain fink or gutter leading from the Mansion house of a certain R. there by the house of him F. for all the necessaries of him R, by that fink running and conveying, unjuftly did ftop up and hinder, to the grievous damage of him R. and to the great grievance of others the people of the faid Common-wealth there inhabiting, and against the publick peace, &c. The

The Jurors &c. That C. &c. the day and Part 2. year &c. and divers other daies and times, as Chap. 15 well before as after, at C. aforesaid in the County foresaid, and elsewhere in the County foresaid, 99. Against was and yet is a common drunkard, frequenter of a drunkard. Taverns, and perturber of the publick peace, and to the evil example &c. and against the forme, &c. and against the peace &c.

# Indictments against Ale-house keepers.

The Jurors &c. That A. &c. day and year 100. For felerc, and divers other dayes and times as wel be- without lifore as after, at C. aforesaid, in the county foresaid, cence. obstinately, and out of his own authority, and without any admission and allowance of the Justices of peace of the County foresaid, took upon himself to keep, and did keep a common Alehouse or tipling house against the forme &c.

The Jurors &c. do present, That &c. and di- sor. The vers other dayes and times as wel before as after, like. at N. in the County of N. in his mansion house, obstinately, and of his own authority did keep and maintain a common Ale-house, and then commonly and publickly did fell Ale and beere to divers of the people of the Common-wealth of England, not being thereunto admitted or allowed in open seffions of the peace & c.nor by two Justices of the peace &c. in the county aforesaid, one of them being of the quorum, against the form of the statute in such case lately made and provided, and against the publick peace &c.

The Jurors &c.do pretent, That whereas the like. City

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City of N is and from the time whereof there is no memory of man, hath been an ancient City, and that within the same City, and chiefly in Maudlin street in N. aforesaid, in the County of the City aforesaid, there are very many ancient common Innesslufficient to entertain all the good people &c. to or by the faid City riding, going or travelling. Nevertheless one # W of N. in the Countie of the City of N. Joyner, not being ignorant of the premisses, the eighteenth day of F. in the year of our Lord 1654. at N. aforesaid in the County of the City forefaid, in the parish of Saint Saviours in the County of the City foresaid, within his mansion house in the parish aforesaid, in the faid street called Maudlin street in the county of the City foresaid, unlawfully, and of his own proper authority in this behalf obtained hath newly fer up one common Inn to entertain men to the City aforesaid riding, travelling and passing, and the same his house as a common Inne from the foresaid eighteenth day of F. in the said year &c. 1654, until the day of the taking of this inquisition at N. foresaid, in the County of the City aforesaid, hath unlawfully kept and maintained and yet doth keep and maintaine, to entertain men as aforefaid in his mansion-house forefaid, and divers men and people of this Common-wealth by the fame way riding, paffing and travelling, and with their horses and goods to the City aforesaid comming, in contempt of & c. and to the evil example or other like malefactors, and to the great dammage and prejudice of divers good people &c. who have and do lawfully keep and hold common Innes within the City foresaid, and have lawfully held and kept fuch Innes, according to the lawes

and customes of this Common-wealth, by all the Part 2. time aforesaid, against the publick peace &c. and Chap. 15 against the form of the statute in such case lately made and provided.

The Jurors &c.do present, That AB. late of keeping ill M.in the County foresaid victualer, the first day of rule. May in the year &c. 1654. and at divers other times as wel before as after at T. aforesaid, did keep, and as yet doth keep a common tipling house without licence, and as wel the faid first day of May, in the faid year of our Lord 1654 aforesaid, as at divers other daies and times hath received and entertained in his faid house divers feveral persons, as wel men as women of evil behaviour, fame and conversation; and evil rule in his faid house from day to day did maintain andkeep, & yet doth maintain and keepsto the evil example of the people of this nation, and manifest breach of the peace, and contrary to the statute &c.

The Jurors &c. do present, That AB. late of 194. For E.in the County of E. victualler the first day of without live gar of our Lord God 1654 and concence. tinually afterwards until the day of the taking of this inquest - (or thus) - continually for many daies after, that is to fay, until the first day of Fuly in the year aforesaid, obstinately, and of his own authority without any admission or allowance of the Justices of the peace in the faid county hath taken upon him to keepe a common tipling house, and there the laid first day of June, & the faid other daies afterwards, commonly and openly did sel ale and beer to divers of the people of this Commonwealth, in contempt of, and contrary to

Part 2. the statute in Parliament of Ed. 6. late King of Chap. 15 Eng. at VVestminster in that case made and provided, and against the peace &c.

Indictments for striking in a Church or Church-yard.

105. Churchyard

The Jurors &c. do present, That IS. late of &c. such time and place in the Church-yard of the parish Church of H. foresaid, malitiously did draw his dagger upon one IS. of &c. with intent to strike the said IS. with the said dagger, against the peace, and contrary to the forme of the Stat. in that case made and provided.

106. For an affault in a Church.

The Jurors &c. that E H. the wife of TH of H. in the County &c. Gent. such day and year &c. of her wicked and irreligious disposition at H, foresaid in &c. upon one R. Gent. in the peace of God and &c. in the Parish Church of H. foresaid then and there being, ready to hear divine service there celebrated, by force and armes &c. that is to fay, with staves, swords and knives did make an affault and affray, and did malitiously spir upon the face of the said R B, and one Hat to the value of ten shillings of the goods and chartels of the said RB. did take, and about the Church disdainfully did cast, and other wrongs to the faid R B then and there did, to the great damage of the faid R. and against the publick peace, &c.

Indictments for forestalling &c.

The Jurors &c. that &c. the day &c. at &c. bought the whole barley growing upon 20. acres of land at &c. to the intent the laid barley to sell again against the form of the statute, and against the peace &c.

107.

The Jurors &c. That A.of &c. in &c. fuch day & year & c.in a certain market then and there holden, for forty shillings did buy, regrate, ob ain and 108. For teprocure, and into his possession and hands get 10. couple of lings and 3. firkins of falt butter of one FF. who the fai to couple of lings and &c. at the same market, and there brought the same to sel and that immediately afterwards (that &c. ) the faid day and year the faid A. in the ful market then and there at B. forelaid in the county forelaid holden all the coupels of ling, and the faid firkins of butter to one S R, for 60.s. of lawful money of Eng. unlawfully did fel, to the great damage of the Common-wealth, and contrary to the form &c.

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grating fish and bucter.

The Jurors &c. That A.of &c. fuch day and 109. For inyear &c. 10 quarters of barly to the value of 10 1. greffing of G T. did buy and ingross, and in his hands did corn. keep, with intent to fel the same again, contrary to the form &c.

The Jurors &c. that whereas A. was possessed 110. For of a kine coloured black, of the price of 4. l. as forestailing. of his proper goods; that VV. of &c. yeoman the faid 2 kine going to the fair at P.to be fold, before they came into the faid fair to be fold, did buy, an had of the faid A. out of the fair, to the forestalling of the faid fair, contrary to the form of the ftat. &c.

The Jurors &c. 5. firkins of butter to the value of &c. and 5. weyes of cheele, to the value of &c. butter and did buy to the intent to fel again the faid butter cheefe. and cheefe against the form of the statiand against the publick peace &c.

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An Indictment for taking away a maid out of another mans custody.

The Jurors &c. that whereas by a statute &c. That if any person or persons b ing above the age of 14. years after the 1.day&c.il al unlawfully take or lead away, or cause to be taken or lead away any maiden or young woman unmarried, within the age of 16, years being from or out of the polfession, and against the wil of the father or mother of luch maiden or young woman, or of or out of the postession and against the will of such perion or persons as then shall happen to have by any lawful wayes or meanes the ordering &c.of any fuch maiden &c. that then every fuch person or persons so offending, being by order or due course thereof attainte of convicted (other then such perion or perions of whom such perion taken away did hold any lanes or tenements by Knights fervice) should have & suffer imprisonment of their bodies by the space of 2 whole years, without bail or mainprile, or otherwise should pay such fine for his or their offence as should be affessed by the Cour cel of & c. Nevertheleffe one R. late of G. in &c. fuch day and year &c. the faid R. being then above the age of 14. not weighing the faid flat, nor fearing the penalty in the fame flat, contained at L.&c. one & B.one of the daughte's of L B.declared, within the age of 16, that is to lay, of the age of 14, years, to which F, the laid L. by his last will and test. in writing oid sive & bequeath for the benefit and marriage of the faid 7. 00. marks of law ful mony of E. and the government and maniage of which J. by the foreigid teft. and aft

last wil of the faid L, to one H. was lawfully com- Part 2. mitted: the faid C L. with force and arms the day, Chap. 15 place, and year aforesaid, being found from the possessions of the said H. against the wil of the said H.unlawfully did take and carry away, contrary to the form of the stat and against the peace &c.

Indictments for an escape.

The Jurors &c. That whereas 7. Tythingman of W. foresaid, in the county foresaid such day & year at W.forefaid in the County forefaid, by vertue of his office foresaid, had taken a certaine per- man to ofon unknown, and vagrant for suspition of felony, viz. for stealing one piece of linnen cloth of the value of ten pound of the goods and chattels of a certain VV VV. and that person unknown, for the felony foresaid taken, committed and delivered to certain R. and T. inhabitants of the Towne of VV. in the County foresaid by them safely and furely to be kept for suspition of the Felony fore-Said: yet the Said R T. after, viz. the foresaid day and year at VV. foresaid in the County foresaid, the foresaid person unknown for the suspition of the felony foresaid &c.out of their custody at large whither he would, for defect of good cuftody, to go negligently permitted, against the publick peace, &c.

113. For an escape of a felon being delivered by a Tithing

The Jurors &c. that &c. being &c. yet the 114. For maforesaid F. the day &c. at &c. with force &c. king an eunlawfully himself from the custody of the fore- arrest. faid T. rescued and escaped, against the peace, &c.

The Jurors &c. that F. &c. being one of the fering an e-Tithingmen of D. &c. the day and year &c. by scape after warrant of VV 8, one of the Justices to the same an arrest.

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F. directed at D. foresaid, took and arrested a certain &c. to answer those things which of the part of the Lord Protector should be objected to him, yet the foresaid F. the day of &c. at &c. him the said T. then and there in his custodie being, so negligently keptsthat for default of good and sufficient custody the same T. from the foresaid F. then and there evaded, and the said F. at large suffered to go, to the evil example of other the people of this Common-wealth &c. and against the publick peace.

making an. escape. The Jurors &c. That whereas VVS. Esquire, one of the Justices &c. by his warrant bearing date &c. commanded the Constable of &c to apprehend the body of T of &c. and him tasely to bring before him the said VVS. &c. and IS. being then Constable of B. foresaid, the first day of &c. at &c. by vertue of the warrant aforesaid, did arrest the foresaid T. according to the tenure of the foresaid warrant, yet the foresaid T. the warrant foresaid little regarding, but contemning, then and there with force and armes, after the arrest foresaid, himself from the custody of the foresaid Constable reserved and at large went, against the publick peace &c.

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